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that the Grievance Board procedures supplant the chapter 75 procedures under title 5, United States Code. Obviously, nothing in this section or in the rest of the bill cuts off the right of a member of the Foreign Service to appeal to the Merit Systems Protection Board, the Equal Employment Opportunity Commission, the Special Counsel, or Federal court, under the provisions of any other law.

FORMER SPOUSE PENSION

Before I begin my explanation of this section, I want to point out a typographical error in the conference report. In the first sentence of section 814(a)(3), the "on" should be "or" the second time it appears.

The conference committee adopted the Senate language on retirement benefits for divorced Foreign Service spouses, with three modifications.

First, the effective date provision (Section 2403(e)(2)) was revised so that the provisions relating to the rights of former spouses to receive survivor annuities apply only in the cases of individuals who become former spouses after the effective date of the act—February 15, 1981.

Second, a new provision was added to permit an individual who prior to the effective date of the act had a former spouse to elect to provide a survivor benefit for the former spouse.

Third, new provisions were added to permit the parties to enter into spousal agreements regarding their respective rights under chapter 8 of this bill. Such an agreement will be given the same effect as a court order allowing the parties to adjust their respective rights without the necessity of going to court.

This legislation attempts to remedy an inequity in current Federal retirement policy—its failure to assure retirement protection to spouses and divorced spouses of Federal employees. Whereas social security provides automatic benefits for spouses and former spouses, married at least 10 years, Federal retirement law has previously not recognized the contribution of the nonworking spouse or former spouse.

In approving the provisions in the Foreign Service Act, Congress recognizes the vested interest of the nonworking spouse. There has been a traditional division of labor in families by which men assume the breadwinning function and women assume family responsibilities. By taking time out of the work force to raise families, women sacrifice their own work opportunities to promote their husband's careers. As a result of long periods out of the work force as well as their own job mobility, women have been prevented from building their own retirement credit and from vesting for their own pension. The failure of the pension system to recognize the value of the support services provided by the wife has permitted women to fall between the cracks of our pension system and suffer the cruel consequences of poverty in old age.

Congress rejected the proposal that retirement benefits for Foreign Service divorced spouses be left strictly to the discretion of the State courts. Instead Congress adopted Federal guidelines to entitle divorced spouses to a pro rata portion of the retirement annuity and survivor benefits based on the number of years of marriage during creditable years of service, unless the court decided or the parties agreed otherwise.

The rationale for the Federal pro rata guidelines was stated in the reports of both the House Committee on Foreign Affairs and the Senate Committee on Foreign Relations:

Equally unsatisfactory is the decision to leave this problem to a solution by court order. Access to the courts is expensive, particularly for individuals such as Foreign Service spouses who typically have no jobs, no insurance, and no other income to speak of. There is no real precedent for awarding to former spouses a percentage of pension or survivor annuities. In addition, widely varying divorce laws from state to state would result in different awards of a Federal benefit for the same deprivations. Furthermore, there is little or no awareness among the legal community of the special problems faced by Foreign Service spouses. Finally, overseas service frequently results in cutting off these individuals from their community roots, thereby exacerbating the problems normally faced by women seeking divorce. In particular, this results in reliance on a husband's lawyer or on his recommendations. Section 814, therefore, seeks to provide some protection for these individuals through the mechanism of the retirement system.

As a result of the introduction of "no fault" divorce in the last decade and its adoption in all but 2 States, the number of divorces has soared to 1 million annually. Since "no fault" was adopted without the accompanying economic protections for nonworking spouses advocated by the Family Law Section of the American Bar Association, women suffered the economic burden of divorce. A 1979 census survey indicates that only 4 percent of divorced women receive any alimony. Moreover, 78 percent of women with custody of their children received not 1 cent in child support from the fathers of these children.

Therefore, I hope the courts will be responsive to this change in the law. Prior to passage of this act, courts were prohibited from awarding the survivor benefits to older women who had spent long and honorable careers in the Foreign Service and had no other source of retirement income. Now that Congress has changed this defect in the retirement law, I expect courts to consider survivor benefits in all future Foreign Service divorce cases.

The committees were deeply aware of the inequities dealt to Foreign Service spouses who were divorced prior to this act. To ameliorate their plight, the conference report permits a participant or former participant of the Foreign Service retirement system to elect to provide a survivor benefit for a former spouse. Obviously, if a participant can elect to provide such benefits, a court, if the situation warrants, can order a participant to elect to provide survivor benefits.

Our intent is not to force the reopening of numerous divorces. There are cases, however, in which equity and fairness require the courts to reconsider preexisting property settlements. In deciding whether to reopen old cases, courts should consider the availability of survivor benefits under section 2109 new property.

Moreover, couples should be permitted to reopen negotiations regarding their property settlements. If they agree that the divorced spouse should receive the survivor benefits, the courts should honor such negotiations and permit the divorced spouse to pay any back payments due if this is part of the spousal agreement.

The new law states that the presumption of pro rata entitlement will become effective unless changed or rejected by a court within 12 months after the date of divorce or annulment becomes final. However, there is no time limit stipulated by the legislation that would restrict the provisions of a spousal agreement or court order concerning already divorced Foreign Service spouses.

In cases where a final decree has been issued, but no valid property agreement has been signed, the guidelines provided in this act are intended to apply.

It should be emphasized that section 807(c), which permits an individual to decline to accept all or any part of the annuity by submitting a signed waiver to the Secretary of State, applies only to the portion of the annuity to which the Foreign Service participant is entitled. In no way may the participant limit the entitlement of the former spouse.

Section 806(b)(1)(D) permits the Secretary of State to prescribe regulations under which a participant or former participant may make an election concerning survivor benefits without the participant's spouse or former spouse if the participant establishes to the satisfaction of the Secretary of State that the participant does no know, and has taken all reasonable steps to determine the whereabouts of the spouse or former spouse. Obviously, where the participant does not take reasonable steps to find the missing spouse or former spouse, that spouse or former spouse, if he or she later appeared, would have a cause of action against the participant or the Secretary of State or both for the damages suffered as a result of the improper election.

In the future, I think that the Congress should take another look at retirement benefits for those Foreign Service spouses who did not benefit from this bill. I think that the Government has failed to provide adequat compensation to those spouses in exchange for their years of frequent moves to follow the Foreign Service officer and unpaid hours of service performing representational duties. Until October 1, 1976, when the Foreign Service Retirement System was changed to be made consistent with the Civil Service Retirement System, there was a mandated survivor annuity for the Foreign Service spouse designating the spouse as beneficiary by name, in an instrument which both spouses signed. Moreover, the spouse was entitled to this annuity, even if as a widow she remarries before age 60. I do not think that Congress can close the books on the Foreign Service spouse issue until it has done something for those spouses who have received no recompense. One possible solution would be to use the grantee widow approach adopted earlier by the Foreign Service Retirement Act. It provided a minimum survivor annuity for those

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widows whose husbands had not taken a reduction in the primary annuity to provide survivor benefits and thereby retroactively enabled them to receive a survivor annuity.

The bill requries the Secretary of State annually to inform participants and their spouses and former sopuses of their rights under section 814 of the bill. Congress expects that the State Department will involve the Family Liaison Office in notifying participants and their spouses and former spouses of the right conferred by this bill. We expect aggressive efforts to notify individuals of their new rights.

Provisions of the act permit parties to enter into spousal agreements with respect to their rights under chapter 8. Such an agreement will be given the same effect as a court order, allowing the parties to adjust their respective rights without the necessity of obtaining a court order. I urge the Secretary of State to review, advise, and generally assist participants and their spouses in the writing of spousal agreements. The Secretary should provide advisory opinions to participants and their spouses or former spouses on whether their spousal agreements can be honored.

This new retirement law should be interpreted consistent with its intent by both the courts and the Department of State. It is the intent of Congress that Foreign Service divorced spouses be protected against poverty in old age. Regulations and decisions that restrict these protections are contrary to the will of Congress.

The reason I feel constrained to emphasize this point is that the Office of Personnel Management has gone out of its way to write restrictive regulations that have resulted in the denial of court orders contrary to the will of Congress.

When Public Law 95-366 went into effect on September 15, 1978, it mandated the Office of Personnel Management "to honor the terms of any court decree of divorce, annulment, or legal separation, or the terms of any court order or court-approved property settlement agreement incident to any court decree of divorce, annulment, or legal separation."

The intent of the law seems clear enough, but the Office of Personnel Management has messed it up.

In a July 28, 1980, report on the implementation of Public Law 95-366, the General Accounting Office reports that the Office of Personnel Management has rejected 30 court orders and thereby denied apportionment to the affected former spouses. In addition, the General Accounting Office indicates there are another 50 to 100 court orders which were rejected and retired to the records storage facility.

I am outraged that the Office of Personnel Management failed to inform the interested parties in these rejected cases when the Office of Personnel Management regulations were changed to permit the Office of Personnel Management to honor the court orders. Furthermore, the Office of Personnel Management denied a retiree's request that part of his retirement annuity be assigned to his former spouse although the General Accounting Office indicates that the Office of Pe[illegible] authority to permit such allotments. It is callous treatment both of the State courts and those former spouses.

I urge John P. Bowler, Chief of the Office of Personnel Management's Policy Development Section, to immediately reprocess these rejected court orders and retrieve those which are in the storage facility in Boyers, Pa. Innocent women should not be made to suffer because of some bureaucrat's nitpicking.

Moreover, the Office of Personnel Management's regulations of March 7, 1980, must be expanded. The Office of Personnel Management procedures provide for direct payments to the former spouse only if the retiree does not object to such a procedure, even though the court specifically stated that the retiree was to make the payment. It is totally contrary to congressional intent for the Office of Personnel Management to place this restriction on court orders.

Unless there is an administrative solution to the problems soon, I can assure the Office of Personnel Management that a legislative solution will be forthcoming.

I commend the Congress for adopting this precedent setting legislation to recognize the vested interest of the spouse of Federal employees to a pro rata share of the retirement and survivor annuities.

This legislation is consistent with recommendations of the President's Commission on Pension Policy in its interim report of May 1980.

Moreover, it is another step toward more equitable treatment of spouses. Passage of Public Law 95-366 last Congress gave the courts the authority to divide Civil Service Retirement System annuities and removed the immunity of Federal civilian pensions from such court orders.

The Congress has thus far failed to make this provision applicable to the military. To quote the recent General Accounting Office report:

> It should be pointed out that, except for garnishment actions, the uniformed services retirement system does not allow for direct payment of retirement benefits to former spouses in compliance with court orders. We know of no reason why this system should not be consistent with the civil service and Foreign Service systems.

GRIEVANCES

We made some improvement in the grievance section of the bill during the conference. Nevertheless, I still hear a lot of dissatisfaction with the operations of the Grievance Board. In the civil service, grievance systems are negotiated between management and the exclusive representative of the employees. Because of failure of those negotiations in the early seventies, the grievance mechanism is statutory in the Foreign Service. My preference would be to have a negotiated system in the Foreign Service as well. Moving in that direction was impossible during consideration of the Foreign Service Act.

Many of the problems with the grievance system are not capable of legislative solution. Although legislative changes might help, I frankly think that many problems could be better solved by a more assertive Grievance Board. If the members of the Board saw themselves as independent and neutral decisionmakers, the Board would be a stronger and better institution. One of the things we tried to do in this legislation and in the legislative history was to convey to the Grievance Board the interest of Congress in its independence. The Board should not see itself as a management body.

With regard to the definition of a grievance, I think the language of section 1101 provides for a broad range of grievable actions. The area which causes the most concern is that of reprisals. Section 1101(a)(1)(F) makes alleged reprisals grievable. This section should be read without regard to the limitations in section 1101(b). Indeed, the integrity of the grievable mechanism depends on the Grievance Board being able to protect members of the Service who use the system. The list of grievable items in section 1101(a) is a descriptive and not a limiting list. The list in 1101(b) is a list of exceptions and, as such, should be read narrowly by the Grievance Board. Hence, an action should be grievable unless there is a specific, narrow exception in 1101(b).

With regard to the Secretary's veto over Grievance Board decisions, I think a clear statement of congressional intent should be helpful. The way I see the veto provision working is that the agency head should, except in rare cases, adopt and implement the decision of the Grievance Board. The decision of an agency head to veto the decision of foreign policy or national security grounds, is essentially unreviewable. What has to be conveyed to agency heads is congressional will that the decision of the Board be implemented. I personally would like to know every time an agency head refuses to implement the decision of a Grievance Board. I would like to know from the Department why the veto was exercised. If vetoes was exercised too often in the future, I would try to remove this veto power from the Secretary.

During floor consideration, both the gentleman from Florida (Mr. FASCELL) and I promised the gentleman from South Carolina (Mr. DERRICK) that we would look into the working of the grievance system. I am sure both of us intend to keep that commitment.

EQUAL EMPLOYMENT OPPORTUNITY

In numerous places throughout this bill, congressional interest in insuring equal employment opportunity in the Foreign Service is stated. Merit principles, including equal employment opportunity must be followed in every personnel action. The Inspector General of the Department of State and the Foreign Service is specifically instructed to inspect to see that merit principles are being observed.

There is new provision which I think deserves special attention. This bill makes statutory the existence of the Board of Examiners of the Foreign Service. The Board is given the specific statutory mandate of seeing whether the examinations given by the Foreign Service meet the requirements of the Uniform Guidelines of Employee Selection Procedures. While these guidelines, issued by the Equal Employment Opportunity Commission and other agencies, apply fully to all Government agencies, enforcement has been lax. This is because

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Daily Digest

HIGHLIGHTS

Senate passed Military Construction Authorizations, Intelligence Authorizations, and Bus Deregulation Legislation.

Senate

Chamber Action

Routine Proceedings, pages S7619–S7763

Bills Introduced: Thirteen bills and one resolution were introduced, as follows: S. 2695–2707; S.J. Res. 210.

Page S7732

Bills Reported: Reports were made as follows:

Page S7731

S. 2094, establishing the concept of reciprocity of market access as an objective for U.S. trade policy where American products are competitive, with an amendment in the nature of a substitute, (with additional and minority views). (S. Rept. No. 97–483)

S. 2422, providing the spouses of CIA employees who have served abroad a vested interest in the retirement benefits of the employee, with an amendment in the nature of a substitute. (S. Rept. No. 97–484)

Report to accompany S. 2222, revising and reforming U.S. immigration laws, (with additional and minority views). (S. Rept. No. 97–485)

Measures Passed:

Work Schedules (Flexitime): By 93 yeas to 2 nays, Senate passed S. 2240, authorizing Federal agencies to use flexible and compressed employee work schedules, after agreeing to committee amendments, as amended by Stevens unprinted amendments en bloc No. 1047, clarifying the intent of an agency's unilateral right to terminate an experimental schedule and its subsequent responsibilities.

Page S7638

During consideration of this measure, by 49 yeas to 46 nays, the Senate agreed to a motion to table Armstrong unprinted amendment No. 1048, to permit Federal contractors the option of instituting flexible work schedules without facing penalty.

Religious Persecution: Senate agreed to S. Con. Res. 73, condemning the religious persecution by Iran of persons of the Baha'i faith, after agreeing to committee amendments.

Page S7658

Intelligence Authorizations: Senate passed H.R. 6068, authorizing funds for fiscal year 1983 for intelligence activities for the U.S. Government, for the Intelligence Community Staff, and for the Central Intelligence Agency Retirement and Disability System, and supplemental funds for fiscal year ending September 30, 1982, for the intelligence community, after striking all after the enacting clause and inserting in lieu thereof the text of Senate companion measure, S. 2487, which was first amended by adoption of a committee amendment, and Wallop unprinted amendments en bloc 1049, providing equitable sharing by qualifying spouses of CIA officers in retirement benefits earned as a result of service with the Agency.

Page S7662

Prior to the above action, Senate passed S. 2487, passage of which was then rescinded, and the bill indefinitely postponed.

Senate insisted on its amendments, requested a conference with the House, and appointed as conferees Senators Goldwater, Wallop, Garn, Durenberger, Roth, Schmitt, Moynihan, Inouye, Jackson, Leahy, and Bentsen, and for matters of interest to the Committee on Armed Services, Warner.

Page S7675

Budget Waiver: Senate agreed to S. Res. 384, waiving section 402(a) of the Congressional Budget Act of 1974, with respect to consideration of Title IV of S. 2487, listed above.

Page S7662

Copyright Royalties: Senate passed H.R. 4441, requiring that registration fees be paid to the Copyright Office when the registration application is filed, after agreeing to Zorinsky unprinted amendment No. 1050, exempting certain nonprofit organizations from the requirement that nondramatic liter-

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ant to commend my colleague Senator HEINZ for his leadership in bringing this matter to the attention of the full Senate. This is an issue that transcends national boundaries and sectarian interests. The cause of the continuing bloody assault by the Islamic regime in Iran against adherents of the Baha'i faith is religious bigotry and hatred: those who have sought to destroy the Bahá'í faith make a practice of conjuring up accusations of political and criminal intentions on the part of the Baha'is in order to justify the campaign of murder and desecration that has continued for the 138-year history of the Bahá'í religion.

Senator HEINZ has submitted for the RECORD the testimony of Chairman James F. Nelson of the National Spiritual Assembly of the Bahá'ís of the United States before the Subcommittee on Human Rights and International Organizations. I would urge my colleagues to read Mr. Nelson's remarks, for they tell the story not only of the origins of their faith in Iran through the prophet Baga'u'llah, but also of the lies and distortions that have been used over the years by Shiite clergy to discredit members of the Bahá'í community. The use of fabricated information to discredit members of a religion is not limited to this case or to Iran. The horrors the Bahá'ís have suffered in Iran are one particularly brutal and egregious example of what can happen when religious hatred is allowed to grow and flourish. In Iran, it is a matter of national policy to exterminate the followers of Baga'u'llah, people whose affront to Islam is to renounce holy war polygamy, certain dietary laws and regulations concerning ritual purity, according to Mr. Nelson's testimony. The pivotal principle of the Bahá'í faith is the unity of mankind, and a belief that the dialogue between God and man never stops.

Although there have been bursts of repression and murder in Iran against the Bahá'ís since the faith was founded there, the days since the coming to power of the Ayatollah Khomeini have seen the most organized and relentless effort yet to destory the Bahá'í community. Their most holy shrines have been eradicated, their literature and artifacts confiscated and burned, and their people kidnapped, tortured and murdered by the hundreds.

The United States must not sit by while the systematic annihilation of the followers of the Bahá'í faith continues. To endure this in silence is an abrogation of our fundamental responsibilities as human beings and as a nation committed to individual liberty and religious freedom. If the reality of the potential loss of these freedom seems too far away, I would refer my colleagues again to the testimony of James Nelson. He reports that on March 27 of this year:

The Baha'is of Morgantown, W.Va., were prevented from holding a prayer meeting when a group believed to be Iranian students threatened the management of the hotel in which the event was to have taken place. Similar incidents have occurred in Reno, Nev., and Minneapolis, Minn.

I urge immediate passage of Senate Concurrent Resolution 73 by the Senate, and continued expressions of outrage and concern by the U.S. Government and its citizens. This genocide must not go unchallenged.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.'

The committee amendment was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution, as amended.

The concurrent resolution, as amended, was agreed to.

The preamble was agreed to

The concurrent resolution (S. Con. Res. 73), as amended, with its preamble, reads as follows:

S. CON. RES. 73

Whereas the Bahá'í community in Iran is experiencing persecution, harassment and disappearances of family members, job discrimination, seizure of bank funds, destruction of personal property, and torture;

Whereas current reports shows at least one hundred and thirteen executions of Bahá'ís and Bahá'í religious leaders by the Government of Iran; and

Whereas the continued harassment and murder of Bahá'ís demonstrates that the Government of Iran has launched a conscious effort to destroy the Bahá'í community: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress of the United States condemns persecution of the Baha'is, holds the Government of Iran responsible for upholding the rights of all its citizens, including the Bahá'ís, and expresses the hope that the discrimination and brutal executions within the Bahá'í community cease immediately. The Congress urges the Iranian Government to take whatever means are necessary to end this extermination of law abiding citizens who only wish to worship in freedom.

Amend the title so as to read: "To condemn the Iranian persecution of the Baha'i community.".

The title was amended so as to read: "A concurrent resolution to condemn the Iranian persecution of the Bahá'í community."

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. HEINZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BUDGET ACT WAIVER

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 583, Senate Resolution 384, concerning a budget waiver.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 384) waiving section 402(a) of the Congressional Budget Act of 1974 with respect to consideration of title IV of S. 2487, which authorizes supplemental appropriations for fiscal year 1982 for intelligence activities of the United States.

The PRESIDING OFFICER. Is there objection to the present considering of the resolution?

Mr. ROBERT C. BYRD. There is no objection, Mr. President.

The resolution (S. Res. 384) was considered and agreed to, as follows:

S. RES. 384

Resolved, That pursuant to Section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to consideration of title IV of S. 2487, which authorizes supplemental appropriations for fiscal year 1982 for intelligence activities of the United States.

Such a waiver is necessary because title IV of S. 2487 authorizes supplemental appropriations for fiscal year 1982. Compliance with section 402(a) of the Congressional Budget Act of 1974 was not possible by May 15, 1981, because the amount of supplemental appropriations for fiscal year 1982 for intelligence activities of the United States was not known at that time.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1983

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 683, S. 2487, the bill to authorize intelligence activities appropriations for fiscal year 1983.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 2487) to authorize appropriations for the fiscal year 1983 for intelligence activities of the U.S. Government, for the Intelligence Community Staff and for the Central Intelligence Agency retirement and disability system, and for other purposes.

The PRESIDING OFFICER. Is there objection to this present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Armed Services with an amendment, as follows:

On page 3, line 3, after "Senate.", insert "as amended by the classified appendix of the Committee on Armed Services of the Senate".

So as to make the bill read:

S. 2487

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Intelligence Authorization Act for Fiscal Year 1983".

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TITLE I—INTELLIGENCE ACTIVITIES

AUTHORIZATION OF APPROPRIATIONS

SEC. 101. (a) Funds are authorized to be appropriated for the fiscal year 1983 for the conduct of intelligence activities of the following departments, agencies, and other elements of the United States Government:

(1) The Central Intelligence Agency and the Director of Central Intelligence.

(2) The Department of Defense.

(3) The Defense Intelligence Agency.

(4) The National Security Agency.

(5) The Department of the Army, the Department of the Navy, and the Department of the Air Force.

(6) The Department of State.

(7) The Department of the Treasury.

(8) The Department of Energy.

(9) The Federal Bureau of Investigation.

(b) The amounts authorized to be appropriated under subsection (a) for the conduct of the intelligence activities of the agencies listed in such subsection are those listed in the classified schedule of Authorizations for the fiscal year 1983 prepared by the Select Committee on Intelligence of the Senate, as amended by the classified appendix of the Committee on Armed Services of the Senate. Such Schedule of Authorizations shall be made available to the Committee on Appropriations of the Senate, the Committee on Appropriations of the House of Representatives, and to the President. The President shall provide for suitable distribution of the schedule, or of appropriate portions of the schedule, within the executive branch.

(c) During the fiscal year 1983, funds may not be made available for any activity for which funds are authorized to be appropriated by this Act unless such funds have been specifically authorized for such activity or, in the case of funds appropriated for a different activity, unless the Director of Central Intelligence or the Secretary of Defense has notified the appropriate committees of the Congress of the intent to make such funds available for such activity.

(d) Authorizations of appropriations provided in this Act shall not be deemed to constitute authority for the conduct of any intelligence activity which is not otherwise authorized by the Constitution or laws of the United States.

TITLE II—INTELLIGENCE COMMUNITY STAFF

AUTHORIZATION OF APPROPRIATIONS; PERSONNEL

SEC. 201. (a) there are authorized to be appropriated for the Intelligence Community Staff for the fiscal year 1983, $15,200,000.

(b) The Intelligence Community Staff is authorized two hundred and ten full-time personnel as of September 30, 1983. Such personnel may be permanent employees of the Intelligence Community Staff or personnel detailed from other elements of the United States Government.

(c) Any employee of the United States who is detailed to the Intelligence Community Staff from another element of the United States Government shall be detailed on a reimbursable basis, except that any such employee may be detailed on a nonreimbursable basis for a period of less than one year for the performance of temporary duties as required by the Director of Central Intelligence.

(d) Except as provided in subsections (b) and (c), the activities and personnel of the Intelligence Community Staff shall be subject to the provisions of the National Security Act of 1947 (50 U.S.C. 401 et seq.) and the Central Intelligence Agency Act of 1949 (50 U.S.C. 403a et seq.) in the same manner as activities and personnel of the Central Intelligence Agency.

TITLE III—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

AUTHORIZATION OF APPROPRIATIONS

SEC. 301. There are authorized to be appropriated for the Central Intelligence Agency Retirement and Disability Fund for the fiscal year 1983, $91,300,000.

TITLE VI—SUPPLEMENTAL AUTHORIZATION FOR THE FISCAL YEAR 1982

SUPPLEMENTAL AUTHORIZATION OF APPROPRIATIONS

SEC. 401. In addition to funds authorized to be appropriated for the fiscal year 1982 for the conduct of intelligence activities of the United States Government, there are authorized to be appropriated supplemental funds for such fiscal year for such purpose. The amounts authorized to be appropriated under this title are those listed in the classified Schedule of Supplemental Authorizations for the fiscal year 1982 prepared by the Select Committee on Intelligence of the Senate.

TITLE V—GENERAL PROVISIONS

INCREASES IN EMPLOYEE BENEFITS

SEC. 501. There are authorized to be appropriated such amounts as may be necessary for increase in salaries, pay, and retirement or other benefits provided by law for employees for whose salary, pay, and benefits appropriations are authorized by this Act.

AUTOMATIC DATA PROCESSING EQUIPMENT OR SERVICES

SEC. 502. (a) Section 3 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403c) is amended by adding at the end thereof the following new subsection:

"(e) Notwithstanding subsection (e) of section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(e)), the provisions of section 111 of such Act relating to the procurement of automatic data processing equipment or services shall not apply with respect to such procurement by the Central Intelligence Agency.".

(b) Subsection (e) of section 3 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403(e)), as added by subsection (a) of this section, does not apply to a contract made before the date of enactment of this Act.

UNAUTHORIZED USE OF DEFENSE INTELLIGENCE AGENCY NAME, INITIALS, OR SEAL

SEC. 503. (a) Chapter 4 of title 10, United States Code, is amended by adding at the end thereof the following new section;

"§ 140c. Secretary of Defense Use of Defense Intelligence Agency name, initials, or seal

"(a) No person may, except with the written permission of the Secretary of Defense, knowingly use the words 'Defense Intelligence Agency', the initials 'DIA', the seal of the Defense Intelligence Agency, or any colorable imitation of such words, initials, or seal in connection with any merchandise, impersonation, solicitation, or commercial activity in a manner reasonably calculated to convey the impression that such use is approved, endorsed, or authorized by the Defense Intelligence Agency.

"(b) Whenever it appears to the Attorney General that any person is engaged or is about to engage in an act or practice which constitutes or will constitute conduct prohibited by subsection (a), the Attorney General may initiate a civil proceeding in a district court of the United States to enjoin such act or practice. Such court shall proceed as soon as practicable to the hearing and determination of such action and may, at any time before final determination, enter such restraining orders or prohibitions, or take such other action as is warranted, to prevent injury to the United States or to any person or class of persons for whose protection the action is brought.".

(b) The table of sections at the beginning of chapter 4 of title 10 is amended by adding at the end thereof the following new item:

"140c. Secretary of Defense: Use of Defense Intelligence Agency name, initials, or seal.".

Mr. GOLDWATER. Mr. President, today marks only the sixth time that a separate budget authorization bill has been introduced for U.S. intelligence activities. The budget authorization process is now standard procedure and represents clear evidence that our constitutional responsibilities can be fulfilled while, at the same time, maintaining the confidentiality necessary for an effective intelligence system.

Mr. President, no other nation in the world does what we have been doing now for the past 6 years. No other nation in the world allows its legislative branch to oversee in detail and authorize the budget for its intelligence community. In my judgment, this is the best method that can be used to insure that there is accountability for intelligence activities in our Government. Annual authorization for intelligence is now an established practice in our Government, and I think that it works very well in insuring that we have strong and effective intelligence which is responsive to the needs of our Government and our Nation.

Earlier this year, the Budget Subcommittee of the Senate Select Committee on Intelligence held numerous closed hearings and we have engaged in hundreds of hours of staff interviews and briefings in putting together the bill which is on the floor today. We have examined in detail the budgets of the Central Intelligence Agency, the National Security Agency, and the intelligence activities of the Departments of Defense, State, and Treasury, and of the Federal Bureau of Investigation. Given the extremely short time period we have had to finish this process this year, I want to say that the cooperation and patience that was shown to us by all concerned was a tribute to the professional attitude and dedication of these people.

Mr. President, I thank my colleagues—in particular, Senator WALLOP and Senator INOUYE, the distinguished chairman and vice chairman of our Budget Subcommittee—for their hard work and effort in preparing this legislation. These two gentlemen and their colleagues on the Budget Subcommittee are responsible for the lion's share of the work and they are to be commended for it.

Also, I thank the staff of the Senate Intelligence Committee and acknowledge the fine work they have done in preparing and presenting this bill. In particular, Mr. President, I draw attention to the contribution of Danny Childs, our senior budget officer.

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Danny has served our committee in this capacity ably over the years—in fact, since the very first days of our existence. He has played a very important role in the budget authorization process and we are most grateful to him for his contribution. This year will be the last time that Danny will engage in this process, as he has been selected to serve in the very important post of Comptroller of the Central Intelligence Agency. This is a great honor and a great accomplishment for him, and we applaud him for being selected to this important position. On behalf of all the members of the committee, I wish him the very best in the future.

Mr. President, the Intelligence Authorization Act for fiscal year 1983 is an important piece of legislation which I urge my colleagues to support. I now yield the floor to Senator WALLOP and ask him to manage this bill on my behalf.

Mr. WALLOP. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. KASTEN). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WALLOP. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WALLOP. Mr. President, on behalf of the Select Committee on Intelligence I send to the desk two unprinted amendments and ask for their immediate consideration.

The PRESIDING OFFICER. The Chair would like to inform the Senator that the committee amendment must be disposed of first, the committee amendment as reported from the Committee on Armed Services.

Mr. WALLOP. All right. I ask for the adoption of the committee amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Committee on Armed Services.

The amendment was agreed to.

UP AMENDMENT NO. 1049

(Purpose: To provide for equitable sharing by qualifying spouses of Central Intelligence Agency officers in retirement benefits earned as a result of service with the Agency).

Mr. WALLOP. Mr. President, I now ask that the two unprinted amendments be stated.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Wyoming (Mr. WALLOP) proposes unprinted amendments en bloc numbered 1049.

Mr. WALLOP. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, line 3, insert "titles I through V of" after "That".

At the bottom of page 7, add the following new title:

TITLE VI—RETIREMENT BENEFITS FOR CERTAIN FORMER SPOUSES OF CENTRAL INTELLIGENCE AGENCY EMPLOYEES

SHORT TITLE

SEC. 601. This title may be cited as the "Central Intelligence Agency Spouses' Retirement Equity Act of 1982".

ANNUITANTS

SEC. 602. Section 204 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note) is amended—

(1) by inserting "former spouses," after "including surviving wives and husbands"; and

(2) by adding at the end thereof the following:

"(4) 'Former spouse' means a former wife or husband of a participant or former participant who was married to such participant for not less than 10 years during periods of service by that participant which are creditable under sections 251, 252, and 253 of this Act, at least five years of which were spent outside the United States by both the participant and the former spouse.".

COMPUTATION OF ANNUITIES FOR OTHER THAN FORMER SPOUSES

SEC. 603. Section 221 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees is amended—

(1) by inserting immediately above the section the following section heading: "COMPUTATION OF ANNUITIES FOR OTHER THAN FORMER SPOUSES"; and

(2) by amending subsection (b) to read as follows:

"(b)(1)(A) Except to the extent provided otherwise under a written election under subparagraph (B) or (C), if at the time of retirement a participant or former participant is married (or has a former spouse who has not remarried before attaining age 60), the participant shall receive a reduced annuity and provide a survivor annuity for his or her spouse under this subsection or former spouse under section 222(b), or a combination of such annuities, as the case may be.

"(B) A married participant or former participant and his or her spouse may jointly elect in writing to waive a survivor annuity for that spouse under this section (or under section 222(b) if the spouse later qualifies as a former spouse under section 204(b)(4)), or to reduce such survivor annuity under this section (or section 222(b)) by designating a portion of the annuity of the participant as the base for the survivor benefit. If the marriage is dissolved following an election for such a reduced annuity and the spouse qualifies as a former spouse, the base used in calculating any annuity of the former spouse under section 222(b) may not exceed the portion of the participant's annuity designated under this subparagraph.

"(C) If a participant or former participant has a former spouse, the participant (or former participant) and such former spouse may jointly elect by spousal agreement under section 263(b) to waive a survivor annuity under section 222(b) for that former spouse.

"(D) The Director may prescribe regulations under which a participant or former participant may make an election under subparagraph (B) or (C) without the participant's spouse or former spouse if the participant establishes to the satisfaction of the Director that the participant does not know, and has taken all reasonable steps to determine, the whereabouts of the spouse or fromer spouse.

"(2) The annuity of a participant or former participant providing a survivor benefit under this section (or section 222(b)), excluding any portion of the annuity not designated or committed as a base for any survivor annuity, shall be reduced by 2½ percent of the first $3,600 plus 10 percent of any amount over $3,600. The reduction under this paragraph shall be calculated before any reduction under section 222(a)(5).

"(3) (A) If a former participant entitled to receive a reduced annuity under this subsection dies and is survived by a spouse, a survivor annuity shall be paid to the surviving spouse equal to 55 percent of the full amount of the participant's annuity computed under subsection (a), or 55 percent of any lesser amount elected as the base for the survivor benefit under paragraph (1)(B).

"(B) Notwithstanding subparagraph (A), the amount of the annuity calculated under subparagraph (A) for a surviving spouse in any case in which there is also a surviving former spouse of the participant who qualifies for an annuity under section 222(b) may not exceed 55 percent of the portion (if any) of the base for survivor benefits which remains available under section 222b(4)(B)

"(C) An annuity payable from the fund to a surviving spouse under this paragraph shall commence on the day after the participant dies and shall terminate on the last day of the month before the surviving spouse's death or remarriage before attaining age 60. If such a survivor annuity is terminated because of remarriage, it shall be restored at the same rate commencing on the date such remarriage is dissolved by death, annulment, or divorce if any lump sum paid upon termination of the annuity is returned to the fund.".

RIGHT OF ELECTION

SEC. 604. Section 221 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended by section 603 of this title, is further amended in subsection (g)—

(1) by inserting "(1)" after "(g)";

(2) by redesignating paragraphs (1) and (2) as clauses (A) and (B), respectively; and

(3) by adding at the end thereof the following:

"(2) A surviving former spouse of any participant or former participant shall not become entitled to a survivor annuity or to the restoration of a survivor annuity payable from the fund unless the survivor elects to receive it instead of any other survivor annuity to which he or she may be entitled under this or any other retirement system for Government employees on the basis of a marriage to someone other than that participant.".

SUPPLEMENTAL ANNUITIES; RECOMPUTATION OF ANNUITIES

SEC. 605. Section 221 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended by sections 603 and 604 of this title, is further amended by adding at the end thereof the following:

"(m)(1) Any married annuitant who reverts to retired status with entitlement to a supplemental annuity under subsection 271(b) shall, unless the annuitant and his or her spouse jointly elect in writing to the contrary at that time, have the supplemental annuity reduced by 10 percent to provide a supplemental survivor annuity for his or her spouse. Such supplemental survivor annuity shall be equal to 55 percent of the supplemental annuity of the annuitant and shall be payable to a surviving spouse to whom the annuitant was married at the time of reversion to retired status or whom the annuitant subsequently married.

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rector shall issue regulations ... the application of paragraph ... of this subsection and of subsection 221(b) in any case in which an annuitant has a former spouse who was married to the participant at any time during a period of creditable service and who qualifies for an annuity under section 222(b).

"(m) An annuity which is reduced under this section or any similar prior provision of law to provide a survivor benefit for a spouse shall, if the marriage of the participant to such spouse is dissolved, be recomputed and paid for each full month during which an annuitant is not married (or is remarried if there is no election in effect under the following sentence) as if the annuity had not been so reduced, subject to any reduction required to provide a survivor benefit under section 222 (b) or (c). Upon remarriage the retired participant may irrevocably elect, by means of a signed writing received by the Director within one year after such remarriage, to receive during such marriage a reduction in annuity for the purpose of allowing an annuity for the new spouse of the annuitant in the event such spouse survives the annuitant. Such reduction shall be equal to the reduction in effect immediately before the dissolution of the previous marriage (unless such reduction is adjusted under section 222(b)(5)), and shall be effective the first day of the first month beginning one year after the date of remarriage. A survivor annuity elected under this subsection shall be treated in all respects as a survivor annuity under subsection (b).

"(c) The director shall, on an annual basis—

"(1) inform each participant of his or her right of election under subsections (f)(2) and (m); and

"(2) to the maximum extent practicable, inform spouses or former spouses of participants or former participants of their rights under this section and section 222.".

COMPUTATION OF ANNUITIES FOR FORMER SPOUSES

SEC. 505. Part C of title II of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees is amended by adding at the end thereof the following:

"COMPUTATION OF ANNUITIES FOR FORMER SPOUSES

"SEC. 222. (a)(1) Unless otherwise expressly provided by any spousal agreement or court order under section 263(b), a former spouse of a participant or former participant is entitled to an annuity—

"(A) if married to the participant throughout the creditable service of the participant, equal to 50 percent of the annuity of the participant; or

"(B) if not married to the participant throughout such creditable service, equal to a proportion of 50 percent of such annuity which is the proportion that the number of days of the marriage of the former spouse to the participant during periods of creditable service of such participant under this Act bears to the total number of days of such creditable service.

"(2) A former spouse shall not be qualified for an annuity under this subsection if before the commencement of that annuity the former spouse remarries before becoming 60 years of age.

"(3) The annuity of a former spouse under this subsection commences on the later of the day the participant upon whose service the annuity is based becomes entitled to an annuity under this title or the first day of the month in which the divorce or annulment involved becomes final. The annuity of such former spouse and the right thereto terminate on—

"(A) the last day of the month before the former spouse dies or remarries before 60 years of age; or

"(B) the date the annuity of the participant terminates (except in the case of an annuity subject to paragraph (4)(B)).

"(4)(A) The annuity payable to any participant shall be reduced by the amount of an annuity under this subsection paid to any former spouse based upon the service of that participant. Such reduction shall be disregarded in calculating the survivor annuity for any spouse, former spouse, or other survivor under this title, and in calculating any reduction in the annuity of the participant to provide survivor benefits under subsection (b) or section 221(b).

"(B) If any annuitant whose annuity is reduced under subparagraph (A) is recalled to service under section 271, or reinstated or reappointed, in the case of a recovered disability annuitant, or if any annuitant is reemployed as provided for under sections 272 and 273, the salary of that annuitant shall be reduced by the same amount as the annuity would have been reduced if it had continued. Amounts equal to the reductions under this subparagraph shall be deposited in the Treasury of the United States to the credit of the fund.

"(5) Notwithstanding paragraph (3), in the case of any former spouse of a disability annuitant—

"(A) the annuity of that former spouse shall commence on the date the participant would qualify on the basis of his or her creditable service for an annuity under this title (other than a disability annuity) or the date the disability annuity begins, whichever is later, and

"(B) the amount of the annuity of the former spouse shall be calculated on the basis of the annuity for which the participant would otherwise so qualify.

"(6) An annuity under this subsection shall be treated the same as a survivor annuity under subsection (b) for purposes of section 221(g)(2) or any comparable provision of law.

"(b)(1) Subject to any election under section 221(b)(1)(C) and unless otherwise expressly provided by any spousal agreement or court order under section 263(b), if a former participant who is entitled to receive an annuity is survived by a former spouse, the former spouse shall be entitled to a survivor annuity—

"(A) if married to the participant throughout the creditable service of the participant, equal to 55 percent of the full amount of the participant's annuity, as computed under section 221(a), or

"(B) if not married to the participant throughout such creditable service, equal to a proportion of 55 percent of the full amount of such annuity which is the proportion that the number of days of the marriage of the former spouse to the former participant during periods of creditable service of such former participant under this Act bears to the total number of days of such creditable service.

"(2) A former spouse shall not be qualified for an annuity under this subsection if before the commencement of that annuity the former spouse remarries before becoming 60 years of age.

"(3) An annuity payable from the fund to a surviving former spouse under this subsection shall commence on the day after the annuitant dies and shall terminate on the last day of the month before the former spouse's death or remarriage before attaining age 60. If such a survivor annuity is terminated because of remarriage, it shall be restored at the same rate commencing on the date such remarriage is dissolved by death, annulment, or divorce if any lump sum paid upon termination of the annuity is returned to the fund.

"(4)(A) The maximum survivor annuity or combination of survivor annuities under this section (and section 221(b)(3)) with respect to any participant or former participant may not exceed 55 percent of the full amount of the participant's annuity, as calculated under section 221(a).

"(B) Once a survivor annuity has been provided for under this subsection for any former spouse, a survivor annuity for another individual may thereafter be provided for under this subsection (or section 221(b)(3)) with respect to a participant or former participant only for that portion (if any) of the maximum available base for survivor benefits which is not committed for survivor benefits for any former spouse whose prospective right to such has not terminated by reason of death or remarriage.

"(C) After the death of a participant or former participant, a court order under section 263(b) may not adjust the amount of the annuity of any former spouse under this section.

"(5)(A) For each full month after a former spouse of a participant or former participant dies or remarries before attaining age 60, the annuity of the participant, if reduced to provide a survivor annuity for that former spouse, shall be recomputed and paid as if the annuity had not been so reduced, unless an election is in effect under subparagraph (B).

"(B) Subject to paragraph (4)(B), the participant may elect in writing within one year after receipt of notice of the death or remarriage of the former spouse to continue the reduction in order to provide a higher survivor annuity under section 221(b)(3) for any spouse of the participant.

"(C)(1) In the case of any participant or former participant providing a survivor annuity benefit under subsection (b) for a former spouse—

"(A) such participant may elect, or

"(B) a spousal agreement or court order under section 263(b) may provide for,

an additional survivor annuity under this subsection for any other former spouse or spouse surviving the participant, if the participant satisfactorily passes a physical examination as prescribed by the Director.

"(2) Neither the total amount of survivor annuity or annuities under this subsection with respect to any participant or former participant, nor the survivor annuity or annuities for any one surviving spouse or former spouse of such participant under this section or section 221, shall exceed 55 percent of the full amount of the participant's annuity, as computed under section 221(a).

"(3)(A) In accordance with regulations which the Director shall prescribe, the participant involved may provide for any annuity under this subsection—

"(i) by a reduction in the annuity or an allotment from the salary of the participant,

"(ii) by a lump sum payment or installment payments to the fund, or

"(iii) by any combination thereof.

"(B) The present value of the total amount to accrue to the fund under subparagraph (A) to provide any annuity under this subsection shall be actuarially equivalent in value to such annuity, as calculated upon such tables of mortality as may from time to time be prescribed for this purpose by the Director.

"(C) If a former spouse predeceases the participant or remarries before attaining age 60 (or, in the case of a spouse, the spouse does not qualify as a former spouse upon dissolution of the marriage)—

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"(i) If an annuity reduction or salary allotment under subparagraph (A) is in effect for that spouse or former spouse, the annuity shall be recomputed and paid as if it had not been reduced or the salary allotment terminated, as the case may be, and

"(ii) any amount accruing to the fund under Subparagraph (A) shall be refunded, but only to the extent that such amount may have exceeded the actuarial cost of providing benefits under this subsection for the period such benefits were provided, as determined under regulations prescribed by the Director.

"(D) Under regulations prescribed by the Director, an annuity shall be recomputed (or salary allotment terminated or adjusted), and a refund provided (if appropriate), in a manner comparable to that provided under subparagraph (C), in order to reflect a termination or reduction of future benefits under this subsection for a spouse in the event a former spouse of the participant dies or remarries before attaining age 60 and an increased annuity is provided for that spouse in accordance with this section.

"(4) An annuity payable under this subsection to a spouse or former spouse shall commence on the day after the participant dies and shall terminate on the last day of the month before the former spouse's death or remarriage before attaining age 60.

"(5) Section 291 shall not apply to any annuity under this subsection, unless authorized under regulations by the Director.

"(d) Section 221(l) shall not apply—

"(1) to any annuity payable under subsection (a) or (b) to any former spouse if the amount of that annuity varies by reason of a spousal agreement or court order under section 263(b), or an election under section 221(b)(1)(B), from the amount which would be calculated under subsection (a)(1) or (b)(1), as the case may be, in the absence of such spousal agreement, court order, or election; or

"(2) to any annuity payable under subsection (c).".

SURVIVOR BENEFITS FOR CERTAIN FORMER SPOUSES

SEC. 607. Part C of title II of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended by section 606 of this title, is further amended by adding at the end thereof the following:

"ELECTION OF SURVIVOR BENEFITS FOR CERTAIN FORMER SPOUSES

"SEC. 223. (a) Any participant or former participant in the Central Intelligence Agency Retirement and Disability System who has a former spouse not eligible for survivorship benefits under subsection (b) of section 222 may, by a spousal agreement, elect to receive a reduced annuity and provide a survivor annuity for such former spouse under that subsection.

"(b)(1) If the participant or former participant has not retired under such system, an election under this section may be made at any time before retirement.

"(2) If the participant or former participant has retired under such system, an election under this section may be made within such period after retirement as the Director may prescribe.".

DISCONTINUED SERVICE BENEFITS

SEC. 608. Section 234 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees is amended—

(1) by striking out in subsection (a) "Any" and inserting in lieu thereof the following: "Subject to any limitations contained in subsections (c) or (d), any"; and

(2) by adding at the end thereof the following:

"(c) Unless otherwise expressly provided by any spousal agreement or court order under section 263(b), the amount of a participant's or former participant's lump-sum credit under this section or under section 241 payable to a former spouse of that participant shall be—

"(1) if the former spouse was married to the participant throughout the period of creditable service of the participant, 50 percent of such lump-sum credit to which such participant would be entitled in the absence of this subsection; or

"(2) if such former spouse was not married to the participant throughout such creditable service, an amount equal to a proportion of 50 percent of such lump-sum credit which is the proportion that the number of days of the marriage of the former spouse to the participant during periods of creditable service of such participant under this Act bears to the total number of days of such creditable service.

Such lump-sum credit of the participant shall be reduced by the amount of the lump-sum credit payable to the former spouse.

"(d) A lump-sum payment under this section or section 241 of this Act may be paid by the Director to or for the benefit of a participant only upon written notification by the Director to a current spouse of the participant, if any, or any former spouse with whom the participant has not concluded a final, legally recognizable and enforceable property settlement or judgment incident to divorce proceedings, and the express written waiver of that spouse or former spouse has been received by the Director.".

SPOUSAL AGREEMENTS; COURT DECREES

SEC. 609. The Central Intelligence Agency Retirement Act of 1964 for Certain Employees is further amended—

(1) by striking out "None" in section 263 and inserting in lieu thereof "(a) Except as provided in subsection (b) of this section, none"; and

(2) by adding at the end thereof the following:

"(b) Payments under this Act which would otherwise be made to a participant or the child, survivor, or former spouse of a participant based upon the service of the participant shall be paid (in whole or in part) by the Director directly to the participant, or child, survivor, or former spouse of the participant according to the terms of any legally enforceable spousal agreement or recognized court decree of divorce, annulment, or legal separation between the participant and that former spouse, or the terms of any recognized court order or court-approved property settlement agreement incident to any such spousal agreement or court decree of divorce, annulment, or legal separation. Any payment under this subsection to a party to a spousal agreement, or court decree of divorce, annulment, or legal separation or property settlement agreement incident thereto shall bar recovery by any other person.".

TECHNICAL AMENDMENTS

SEC. 610. The Central Intelligence Agency Retirement Act of 1964 for Certain Employees is further amended—

(1) by striking out in the first sentence of section 221(f) "Any" and inserting in lieu thereof the following: "Subject to the rights of former spouses under sections 221(b) and 222, any"; and

(2) by adding to subsection 221(l) the following paragraph:

"(4) This subsection shall not apply to the extent provided in section 222(d).".

COMPULSORY CONTRIBUTIONS

SEC. 611. Section 211 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees is amended by adding at the end thereof the following new subsection:

"(c) Amounts deducted and withheld from the basic salary of a participant under this section from the beginning of the first pay period after the participant has completed 35 years of creditable service computed under sections 251 and 252 (excluding service credit for unused sick leave under section 221(h)), together with interest on these amounts at the rate of 3 percent a year compounded annually from the date of the deduction to the date of retirement or death, shall be applied toward any special contribution due under section 252(b), and any balance not so required shall be refunded in a lump sum to the participant after separation (or, in the event of a death in service, to a beneficiary in order of precedence specified in subsection 241(b)(1)), subject to any restrictions on lump sums under section 234 of this Act regarding notification or consent of a spouse or prior spouse to such payments, or the participant may use these sums to purchase an additional annuity in accordance with section 281, or any other elective benefits authorized by this Act, including additional retirement or survivorship benefits for a current or former spouse or spouses.".

CIVIL SERVICE EMPLOYEES

SEC. 612. The Central Intelligence Agency Act of 1949 (50 U.S.C. 403a-ie) is amended by adding at the end thereof the following new section:

ANNUITIES FOR FORMER SPOUSES OF CERTAIN EMPLOYEES

"SEC. 14. (a) Any qualified former spouse of an employee of the Agency, which employee is a participant in the Civil Service Retirement and Disability System, is entitled to an annuity under such retirement system—

"(1) if married to the participant throughout the creditable service of the participant, equal to 50 percent of the annuity of the participant; or

"(2) if not married to the participant throughout such creditable service, equal to that former spouse's pro rata share of 50 per centum of such annuity.

"(b) Any qualified former spouse of such employee of the Agency, which employee is a former participant in the Civil Service Retirement and Disability System and is survived by such former spouse, is entitled to an annuity under such retirement system—

"(1) if married to the participant throughout the creditable service of the participant, equal to 55 per centum of the full amount of the participant's annuity; or

(2) if not married to the participant throughout such creditable service, equal to that former spouse's pro rata share of 55 per centum of the full amount of such annuity.

"(c) Notwithstanding subsections (a) and (b), benefits for qualified former spouses shall—

"(1) commence and terminate, and

"(2) be subject to limitation or modification,

because of lump sum payments, spousal agreements, court orders, multiple spouses or former spouses, recall or reinstatement to service, or other circumstances in a manner comparable to the manner in which benefits for former spouses of participants are administered under the Central Intelligence Agency Retirement Act of 1964 for Certain Employees.

"(d) The Director of the Office of Personnel Management in consultation with the Director of Central Intelligence shall issue such regulations as are necessary to implement the provisions of this section.

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provisions of this section re- ...hts of former spouses to any ... under subsection (a) shall apply in ...e case of any individual who after the effective date of this section becomes a former spouse of an individual who separates from the Agency after such date.

"(2) Except to the extent that it is inconsistent with an election made which is comparable to an election under section 223 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, the provisions of this section regarding the rights of former spouses to receive survivor annuities under subsection (b) shall apply in the case of any individual who after the effective date of this section becomes a former spouse of a participant or former participant in the Civil Service Retirement and Disability System.".

EFFECTIVE DATE

SEC. 613. (a) Except as provided in subsections (b) and (c) of this section, this title shall take effect 90 days after the date of its enactment.

(b) The provisions of section 222(a) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as added by this title, regarding the rights of former spouses to an annuity shall apply in the case of any individual who after the effective date of this title becomes a former spouse of an individual who separates from service with the agency after such date.

(c) Except to the extent provided in section 223 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, the provisions of sections 221(b) (as amended by this title) and the provisions of subsections (b) and (c) of section 222 of such Act, as added by this title, regarding the rights of former spouses to receive survivor annuities shall apply in the case of any individual who after the effective date of this title becomes a former spouse of a participant or former participant in the Central Intelligence Agency Retirement and Disability System.

On page 5, between lines 18 and 19, insert the following:

CEILING ON THE EMPLOYMENT OF CIVILIAN PERSONNEL BY THE CENTRAL INTELLIGENCE AGENCY

SEC. 402. Section 102 of the Intelligence Authorization Act for Fiscal Year 1982 (95 Stat. 1150) is amended—

(1) by striking out in the first sentence "The" and inserting in lieu thereof "(a) Except as provided in subsection (b), the"; and

(2) by adding at the end thereof the following:

"(b) The Director of Central Intelligence may authorize the employment of civilian personnel by the Central Intelligence Agency in excess of the number authorized by subsection (a) when he determines that such action is necessary to the performance of important intelligence functions, except that such additional number may not exceed two percent of the total number authorized for the Central Intelligence Agency by such subsection.

"(c) The Director of Central Intelligence shall promptly notify the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate of any authorization to increase civilian personnel of the Central Intelligence Agency under subsection (b).".

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Wyoming.

The amendment (UP No. 1049) was agreed to.

Mr. WALLOP. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GOLDWATER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WALLOP. Mr. President, it is my privilege again this year to introduce the intelligence authorization bill, which authorizes appropriations for U.S. intelligence activities for fiscal year 1983.

This legislation authorizes appropriations for those programs and activities of the U.S. Government which serve the intelligence needs of our national policymakers. This includes the Central Intelligence Agency, the Defense Intelligence Agency, the National Security Agency, and the national intelligence activities of the Departments of Defense, State, Treasury, and Energy, and the Federal Bureau of Investigation. It also authorizes appropriations for the intelligence community staff, and the Central Intelligence Agency Retirement and Disability System, and includes certain legislative provisions to enhance the effectiveness of our intelligence agencies.

The committee views the annual budget authorization process as one of the principal means of fulfilling its oversight responsibilities, because of the insight and leverage it provides in influencing the long-term scope and direction of the U.S. intelligence efforts. This year, as in the past, the committee conducted a comprehensive examination of the intelligence budget request, which included testimony from the Deputy Director of Central Intelligence, key Defense Department officials, and each of the principal program managers.

The committee continues to believe that strengthening and improving the U.S. intelligence system should remain among our highest national priorities. As we have emphasized for the past 2 years, investment in intelligence must grow to insure the system is able to meet the challenges U.S. policymakers will face in the 1990's. Our assessment has not changed; we see no lessening of the worldwide competition with our principal adversaries, while at the same time, developments in the Third World and global issues will grow in importance to our national security.

Until recently, resource constraints, and to some extent the lack of a longer term strategic perspective, have seriously limited the intelligence community's ability to implement the steps necessary to insure they would be able to meet these challenges adequately. Initiatives undertaken during the past couple years are beginning to improve this situation, but further enhancements will be necessary. Fiscal year 1983 represents another important step in the revitalization of the U.S. intelligence system, which in many respects, has been living off capital investments undertaken a decade or more ago. Major investments have been provided for investments in analysis and analytic support systems; a new generation of technical collection systems; expanded human source collection abroad; improvements in our capabilities to counter foreign espionage and international terrorism; and modernization of the worldwide intelligence support infrastructure.

Major investments will continue to be required through the mid- to late 1990's to fully recapitalize the intelligence system and acquire the capabilities necessary to satisfy the broad range of policy needs likely to emerge in the decade ahead. The committee is persuaded that these investments are absolutely essential and that the appropriations recommended for fiscal year 1983 represent a prudent, measured strategy for achieving these goals.

Because of the sensitive nature of our intelligence operations, I cannot discuss the details of the committee's recommendations in open session. They have, however, been set forth in a classified committee report which has been made available to the members under the provisions of Senate Resolution 400.

Mr. President, intelligence is the Nation's first line of defense; it is also one of our major assets for maintaining world peace. In these perilous times, when miscalculation could have such devasting consequence, it is more important than ever that this Nation maintain a strong intelligence system. I strongly urge my colleagues support for this important legislation.

Mr. President, I would like to add to that statement my most sincere and heartfelt praise of a staff member of the committee, Dan Childs.

This completes his fifth budget on which he has worked well and carefully both for the majority and the minority, and in both hats and in both capacities.

He is competent; he moves on to a job that will benefit us and the country as well, and I just want it to be known by my colleagues that this epitomizes the kind of staff service that all of the Senate should be privileged to have at all committee levels.

He has been loyal, competent, and he has been hard-working. He has been uncomplaining. He has been able to work with all members, with appointed staff persons within the committee and with the community.

I think he is held in the widest respect by those in the community with whom he has had to deal and make judgments on behalf of the Senate. I think he is as widely respected by those on the committee who have witnessed this effort, and surely the committee will miss him.

With that I yield to the Senator from Hawaii.

Mr. INOUYE. Mr. President, this amendment would add a title VI to the Intelligence Authorization Act and would provide for equitable sharing by

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qualifying spouses of CIA officers in retirement benefits earned as a result of service with the Agency. The text of the amendment is exactly the same as the provisions of S. 2422 as amended, which has been ordered favorably reported from the Select Committee on Intelligence.

PURPOSE

The purpose of this bill is to secure an equitable share of retirement benefits for qualified spouses of Central Intelligence Agency (CIA) employees who have served a substantial period overseas. These benefits include retirement annuities, survivor payments, and lump-sum disbursements from the retirement fund. This bill would help assure that the spouses of CIA officers, many of whom have made deep personal and professional sacrifices by following their intelligence officer-partners abroad in difficult service, will not be left without means of support in their retirement if their marriages were later to end in divorce.

Under the bill, an individual who has been married for more than 10 years to a CIA officer would presumptively be entitled to a pro rata share of the officer's retirement benefits, up to 50 percent, based on the length of the marriage during the period of Agency service prior to divorce. The spouse would also be entitled to a similar share of the officer's survivorship benefits. These provisions are substantially equivalent to those the Congress adopted for Foreign Service spouses under section 814 and related provisions of the Foreign Service Act of 1980, Public Law 96-465. Only employees and spouses who have served for more than 5 years abroad together during the marriage would be covered by these amendments.

This bill will not only go a long way toward financially protecting CIA spouses who have followed their husbands or wives abroad, but will also help the Agency attract the best possible calibre of employee, such as those who otherwise would have two-career marriages. It will also help to highlight publicly the difficult personal and professional situation of our intelligence officers and their families who serve the Nation abroad.

While providing these assurances, the bill would not necessarily substantively alter the outcome of divorces involving CIA officers. The entitlement of the former spouse to a share of retirement or survivorship payments would be fully reviewable by courts in the context of dividing marital assets at the time of divorce. Today, retirement benefits of CIA officers are already includable in marital assets subject to apportionment by State divorce courts. The fact that the payments to former spouses would be made automatically from the retirement system, unless the divorce court orders otherwise, however, would make these benefits more dependable, particularly during the time before final judicial determination of the terms of the property division.

INTELLIGENCE COMMITTEE ACTION

During the winter of 1981-82, a number of CIA spouses and former spouses and other individuals associated with the Agency, including Mr. William Colby, former Director of Central Intelligence, approached Senator GOLDWATER, chairman of the Select Committee on Intelligence, and myself to request that legislation be enacted to make CIA retirement benefits, which are currently paid exclusively to the employee except when specified otherwise by court divorce order, automatically available in part to former spouses of these employees. Similar legislation had been enacted in 1980 for spouses of Foreign Service officers, who also serve for significant periods overseas, under section 814 and related provisions of the Foreign Service Act of 1980, Public Law 96-465. In response to these contacts, committee staff met with several of these individuals and also with CIA officials, notably Mr. Stanley Sporkin, Agency General Counsel, to discuss the concerns of CIA spouses and former spouses, especially in connection with divorce. As a result of this meeting and other actions, the CIA established a task force on spousal concerns, and this task force subsequently prepared a report on divorce-related problems and other issues.

Difficulties appear to be present in the equitable distribution of retirement benefits to former spouses and the handling of divorce-related requests by spouses or former spouses for Agency assistance in securing through judicial action a share of the retirement benefits of Agency employees. These difficulties were not completely resolved by Executive Order No. 12197 in 1980, which inter alia provided that retirement benefits under the CIA retirement and disability system (CIARDS), like civil service retirement benefits, would be subject to judicial apportionment in the context of the division of marital assets at the time of divorce. Specific problems in administering the Executive order and equivalent civil service provisions made it difficult for former spouses of CIA employees to obtain relief both during and after divorce proceedings. These difficulties were compounded by the overseas location of these spouses during much of their potential professional life, and also by the need of the Agency to retain secrecy concerning the details of the identities and assignments of its personnel who have operated in a clandestine capacity.

In response to these concerns, committee staff drafted S. 2422, which was introduced by myself on April 22, 1982, with Chairman GOLDWATER, Senator MOYNIHAN, vice chairman of the Select Committee, Senator DURENBERGER, and Senator HUDDLESTON as cosponsors. S. 2422 as introduced would have adapted the provisions of the Foreign Service Act of 1980 relevant to retirement benefits for former spouses for insertion in the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note). As such, it would have been applicable only to employees participating in the CIARDS retirement system; it would have covered all such employees, regardless of their actual service abroad. (Nearly all CIA employees with significant overseas service participate in CIARDS and not the Civil Service Retirement and Disability System (CSRDS), and virtually all CIARDS participants have served a substantial period abroad.)

The committee hearing on S. 2422, held on May 5, 1982, was closed due to the sensitive nature of some of the personal identities and case histories discussed. The testimony of several CIA spouses and former spouses was heard, as well as the testimony of high-ranking ex-officials of the CIA including Mr. Colby. The Agency was represented by General Counsel Sporkin as well as supporting staff from the Agency's personnel division. Testimony of several former CIA intelligence officers was also heard.

Out of concern that the views of current intelligence officers be heard despite the problems in reaching them and eliciting their testimony, and in order to obtain a clearer and more detailed statement of the Agency's position on the bill, I instructed at the May 5 hearing that the record be left open for 10 additional days to receive written comments. All comments so received have been considered by the committee's staff and included in the record regardless of when they were received. Scores of comments were received from CIA employees, both in the United States and abroad, in response to the Agency's solicitation of comments in an employee bulletin. The Agency itself also provided detailed written comments on the bill during the response period.

Approximately 75 Agency employees as well as current and former spouses of Agency employees commented on the bill. A majority of wives and former spouses supported S. 2422, as did some Agency officers who would be affected by the legislation. A substantial majority of employees, however, opposed the measure. I wish to record these views, which were received by the committee, but feel that S. 2422 properly addresses a situation in need of legislative attention. It should be recognized, furthermore, that many of the critical comments received by the committee concerned difficulties in communication of the terms of the bill to Agency employees.

In response to the comments received, and also in light of the passage of similar provisions by the House of Representatives in title VI of H.R. 6068, committee staff developed several amendments to S. 2422 as introduced. On June 17, 1982, the full com-

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mittee met to markup S. 2422. Senator HARRISON asked to have his name added as a cosponsor of the bill. The technical amendments to the bill were adopted by the committee in the markup and the chairman, without objection, instructed me to submit the measure and an accompanying report to the floor, subject to perfecting amendments by staff.

BASIC PROVISIONS

S. 2422 would essentially create an interest by spouses of CIA employees who have served 5 years abroad in the retirement benefits of the employees.

Under the bill:

(1) A former spouse of a current or former CIA employee would be entitled to a share of the employee's retirement benefits in proportion to the length of the marriage during the participant's period of creditable service, up to one-half of such benefits, provided both marriage partners spent 5 years abroad and the marriage was for a minimum of 10 years during creditable Government service;

(2) Qualified former spouses would also be eligible for prorated survivorship payments from the retirement fund, and the annuity of the participant would be automatically reduced in order to provide such payments (in accordance with the current formula), subject to an election otherwise by written consent of current marital partners or modification of such entitlements for former spouses through spousal agreements or divorce proceedings.

(3) Qualified former spouses would be provided a pro rata share of lump-sum retirement payments to CIA employees or former employees. Withdrawals of lump-sum amounts from the retirement fund by a participant would be subject to the express written consent of a current spouse or qualified former spouse with whom the participant is not a party to a final spousal agreement or judicial order concerning the division of marital assets.

(4) The provision of Executive Order No. 12197 (1980), in section 1-101(e), that payments from CIARDS are subject to divorce-related legal decrees, would be incorporated into statute and expanded to include spousal agreements as well. This would enable current marital partners to adjust the equities of their individual situation voluntarily through agreement as well as allow the court to adjust them in the context of legal proceedings surrounding divorce or separation. This provision would provide an "escape hatch" in those cases in which the distribution of benefits between the parties under the new provisions did not adequately reflect the true situation of the marriage.

(5) The act would become effective 90 days after enactment. The change in the disposition or retirement annuities described in paragraph (1) above would be applicable to spouses who are divorced after enactment and whose partners retire after enactment. The provision of survivorship benefits described in paragraph (2) above would apply to spouses who are divorced after enactment. Phasing in the new distribution of benefits in this way insures that no current financial situations are substantially affected and that the preconditions of existing divorce decrees are not materially changed.

RATIONALE OF THE AMENDMENT

The basic rationale of S. 2422 is to recognize the personal and professional sacrifices made by the spouses of CIA officers engaged in overseas service, especially in a clandestine capacity. The combination of overseas assignment and the clandestine nature of the work of the officer place special demands on the CIA spouse. In many ways, these demands and sacrifices are similar to those of Foreign Service spouses; but in some ways, they are even more severe. The CIA spouse may be subjected to greater psychological and social pressure as a result of the clandestine nature of certain activities. The following excerpt from the Foreign Relations Committee Report on the Foreign Service Act of 1980 highlights the need for this legislation:

> The nature of a Foreign Service career makes it particularly difficult for spouses of members of the Foreign Service to attain any independent economic security. Not only do the frequent transfers among Foreign Service posts around the world militate against the establishment of an independent career for a spouse, but the opportunity for paid employment of any kind in most foreign countries for a spouse is minimal due to legal, language, and cultural barriers. Foreign Service spouses, therefore, have little opportunity either to establish pensions in their own right or to develop marketable skills which can be put to use when the need arises. At the same time, they often contribute countless unpaid hours to the Service. Under current law, in the event of divorce, a former spouse of a Foreign Service member is denied retirement or survivorship rights under the Foreign Service Retirement System. In contrast, under social security today, a nonworking spouse can acquire a pension based on the work of his or her spouse.
>
> Equally unsatisfactory is the decision [which is the case today for CIA spouses] to leave this problem to a solution by court order. Access to the courts is expensive, particularly for individuals such as Foreign Service spouses who typically have no jobs, no insurance, and no other income to speak of. There is no real precedent for awarding to former spouses a percentage of pensions or survivor annuities. In addition, widely varying divorce laws from state to state would result in different awards of a Federal benefit for the same deprivations. Furthermore, there is little or no awareness among the legal community of the special problems faced by Foreign Service spouses. Finally, overseas service frequently results in cutting off these individuals from their community roots, thereby exacerbating the problems normally faced by women seeking divorce. In particular, this results in reliance on a husband's lawyer or on his recommendation. [This] section [.] . . . therefore, seeks to provide some protection for these individuals through the mechanism of the retirement system.

THE SPOUSES CONTRIBUTION

Even more than in the ordinary case, however, the spouse of a CIA officer serving in a clandestine capacity may provide valuable support to his or her partner's professional service as well as make great personal sacrifices. Several factors illustrate this situation:

Spouses of CIA officers in clandestine service are routinely located abroad for long periods of time and are subject to continual transfers. They are required to live without the personal and social support groups that would often be available within the United States. Because of the nature of their service, some such spouses may not even be able to avail themselves of the social connections provided by American consular and diplomatic staff.

As a result of their foreign location and frequent transfers, such spouses often forego the opportunities for personal and professional development that are available to others. Living in foreign countries and moving from place to place make finding a job difficult. Employment abroad for such spouses may be legally barred or unavailable. Even when employment is obtained, its short-term nature may make normal career advancement, as well as participation in retirement plans, impossible. Employment of a spouse in connection with activities at a CIA station abroad may be subject to nondisclosure agreements that prevent it from being included in personal resumes and similar forms of professional documentation. Also, certain occupations—such as writing—may be effectively foreclosed because they would tend to endanger the clandestine nature of the CIA officer's activities by increasing the visibility of the couple or even compromising certain information about the CIA officer's activities.

The spouse of a CIA officer in clandestine service also may provide more support to the officer, the family, and the country than do other spouses in similar situations. It has been estimated by the Association of American Foreign Service Women that the total hours spent by Foreign Service spouses in service-related activities amount to fully 127 hours or more. The spouse of a CIA officer may provide similar or even more substantial services.

A CIA spouse may have special social and personal obligations resulting from CIA activities undercover. Such activities may place special personal demands on the spouse. The occurence of clandestine activities may cause the spouse special problems in the management of the household.

While spouses may not become directly involved in clandestine activities, situations may arise when the nature of the activities undertaken in-

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evitably affects the officer's spouse and family. Spouses and sometimes entire families are subject to social pressures resulting from the secrecy that the officer's work entails. There is also the inevitable fear by the spouses for the physical safety of their partners.

Occasionally officers in clandestine service become exposed, with unavoidable effects on the entire family. Some exposures have occured in recent years due to the "naming of names" of purported intelligence officers by persons deliberately involved in compromising U.S. intelligence activities abroad; the Congress has recently moved to protect intelligence officers from exposure in this fashion through passage of the Intelligence Identities Protection Act of 1982.

The committee cannot reveal all the details of individual case histories that came before it during consideration of S. 2422, in the closed hearing and the classified record. Therefore, I cannot communicate publicly the full dimensions of the difficulties faced by CIA officers and their spouses in clandestine service abroad. To facilitate greater understanding of these matters, and the motivation of the present bill, however, the committee intends to release as much of this material as possible in a forthcoming public hearing record, after consultation with the CIA concerning appropriate classification.

PROCEDURAL DIFFICULTIES DURING DIVORCE

Secrecy concerns also interfere with the attempts of CIA spouses to claim equitable benefits from the Agency's retirement system. Former spouses of CIA officers who have been in clandestine service are specially disadvantaged in attempting to obtain an interest in their partner's retirement benefits. Like the spouses of foreign service officers, they have in many cases provided substantial support to the professional career of their partner. They have often relocated into circumstances in which their personal career development has been impeded. It would be difficult for them, like former Foreign Service spouses, to obtain full recognition of their contribution to the marital unit in judicial divorce proceedings. For them, as for other classes of Federal employees, court decrees requiring alimony payments by their former partners as part of an overall divorce decree may be defeated through procedural devices and jurisdictional means. For example, former partners may avoid making court-directed alimony payments by leaving the jurisdiction in which their former spouses are located, making collection time consuming and difficult. Such a situation can be especially harsh for former spouses who have voluntarily neglected their own professional development and employment career to provide essential personal support for their partners.

In addition to these ordinary obstacles, former spouses of CIA officers in clandestine service may be prevented from revealing in open court the details of their personal circumstances during certain periods of the marriage. While special procedures—such as the use of cleared attorneys and in camera judicial proceedings—may be available to surmount such difficulties, these additional complications may make enforcing their rights in court difficult. Even though the CIA is willing in principle to provide essential security services in connection with such proceedings, such as clearing attorneys and providing sanitized employment records when necessary, the Agency could be overwhelmed if the volume of such requests were large. And for some former spouses any delay in legal proceedings may cause extreme difficulty.

Mr. President, I ask unanimous consent to include in the RECORD, at this point, the cost estimate for this bill prepared by the Congressional Budget Office in connection with the Select Committee's consideration of S. 2422, together with a section-by-section analysis.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., June 29, 1982.

Hon. BARRY M. GOLDWATER,
Chairman, Select Committee on Intelligence, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed S. 2422, the Central Intelligence Agency Spouse's Retirement Equity Act of 1982, as ordered reported by the Senate Select Committee on Intelligence on June 17, 1982.

This bill would permit former spouses of Central Intelligence Agency retirees to receive a share of retiree annuity and survivor benefits. Since the bill would redistribute but not increase retiree benefits, it is expected that no significant cost to the government will be incurred as a result of enactment of this legislation.

Sincerely,

RAYMOND C. SCHEPPACH,
(For Alice M. Rivlin, Director).

SECTION-BY-SECTION ANALYSIS

SECTION 601—SHORT TITLE

This Act may be cited as the "Central Intelligence Agency Spouses' Retirement Equity Act of 1982."

SECTION 602—QUALIFIED FORMER SPOUSES

Sec. 2 amends section 204 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note) ("CIARDS Act"). (1) to include certain former spouses as persons eligible to receive annuity payments; and (2) to provide that, in order to qualify for benefits under the provisions of this Act, a former spouse must be married to a participant for at least ten years during the period of creditable service by the participant, as defined in the relevant sections of the CIARDS Act, and that at least five of these years must have been spent in service outside the United States.

SECTION 603—COMPUTATION OF ANNUITIES FOR OTHER THAN FORMER SPOUSES

Sec. 3 amends the CIARDS Act to (1) insert a new heading prior to section 221; and (2) replace section 221(b) with corresponding provisions from the Foreign Service Act of 1980, P.L. 96-465, which conform with the effective provision of retirement benefits to former spouses under subsequent sections of this bill. The detailed amendments contained in this section correspond in purpose with those adopted in section 806(b) of the Foreign Service Act, and have been analyzed in a detailed manner in the report of the Foreign Relations Committee on that Act. Sen. Rep. No. 96-913, at page 62. The amendments to subsections 221(b)(1)(B)-(C) of the CIARDS Act have been changed in a minor respect, to delete the time limits contained in the Foreign Service Act for the election of the participant and his current or former spouse to waive survivor payments. This is in response to the experience of the State Department under the Foreign Service Act, as transmitted to the Select Committee by the CIA, which has revealed that such time limitations are unnecessary to effective administration of these two subsections.

SECTION 604—FORMER SPOUSE'S RIGHT OF ELECTION OF SURVIVORSHIP BENEFITS

This section provides that a former spouse eligible to receive a survivor annuity from the CIARDS fund shall only receive it if the former spouse elects to receive it instead of any other survivor annuity to which he or she may be entitled under CIARDS or another federal retirement system on the basis of a marriage to someone other than the participant whose survivorship rights are being claimed.

SECTION 605—SUPPLEMENTAL ANNUITIES; RECOMPUTATION OF ANNUITIES

The new subsection (m) to section 221 of the CIARDS Act adopted in this section corresponds to section 806(1) of the Foreign Service Act of 1980. It is intended to provide a survivorship annuity for the spouses of CIARDS participants who return to active service with the Agency under section 271 of the CIARDS Act. In such cases, the supplemental retirement annuity of the participant based upon his additional service would automatically generate a supplemental survivorship payment in favor of the last surviving spouse, to whom the participant was married at or after the time of reversion to retired status. Contributions for, and eligibility for, this supplemental benefit could be waived by a joint written election otherwise by the participant and the current spouse during the time of the participant's return to service with the Agency. A detailed explanation of this subsection is given in the report of the Foreign Relations Committee on the corresponding subsection of the Foreign Service Act of 1980, in Sen. Rep. No. 96-913 at page 63.

New subsection (n) to section 221 of the CIARDS Act is equivalent to section 806(j) of the Foreign Service Act of 1980, and is discussed in Sen. Rep. No. 96-913 at page 63. It provides for recomputation upwards of the basic annuity of an annuitant who is married upon retirement or thereafter, and who has chosen to provide a survivorship to his current spouse, if the annuitant subsequently becomes single through death or divorce. The subsection also allows an annuitant receiving his full share of annuity payments to elect to provide a survivor benefit in the case of remarriage.

SECTION 606—COMPUTATION OF ANNUITIES FOR FORMER SPOUSES

Section 606 adds a new section, section 222 to the CIARDS Act, entitled "Computation of Annuities for Former Spouses". This section establishes the right of qualified former spouses to a pro rata share of retirement and survivor payments under the Act (subsections (a)-(b)) and for the obtaining

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by the participant of additional survivorships (subsection (c)). Subsection (d) specifies that payments under the preceding subsections in favor of current or former spouses would not be subject to the provision of section 221(1) of the CIARDS Act that monthly payments from the CIARDS fund must be greater than the smallest monthly primary insurance payment under Social Security.

Section 606 is completely derived from section 814 of the Foreign Service Act of 1980, P.L. No. 96-465. The specific provisions of this section are given a detailed analysis in the report of the Foreign Relations Committee on that Act in Sen. Rep. No. 96-913, at pages 66-70. Subsection (a)(4) has, however, been deleted; this is upon the suggestion of the CIA which transmitted comments by the State Department to the Select Committee, to the effect that the time limit contained in this subsection on the effectiveness of spousal agreements and court orders was unnecessary. The succeeding paragraphs of subsection (a)—(5), (6), and (7)—, have accordingly been renumbered (4), (5), and (6), respectively.

SECTION 607—ELECTION OF SURVIVOR BENEFITS FOR CERTAIN FORMER SPOUSES

Section 7 adds a new section to the CIARDS Act, section 223. Subsection (a) of the new section provides that any current or former participant in CIARDS may elect to receive a reduced annuity in order to provide a survivor annuity to a former spouse not otherwise eligible for survivorship benefits under section 222(b), the new former spouse amendment relating to such benefits. Subsection (b) gives the procedural conditions for this election: Paragraph (1) provides that participants or former participants who have not yet retired under CIARDS may so elect any time before their retirement; paragraph (2) provides that the Director may prescribe a period for such election by retired participants and former participants.

The amendments contained in section 7 derive from section 2109 of the Foreign Service Act of 1980. They were adopted by the House and Senate conferees on that Act and are discussed on page 116 of the Conference Committee Report, H.R. Rep. No. 96-1432. The intent of this provision is to provide a vehicle by which participants and former participants in CIARDS may provide a survivorship from the System in favor of their former spouses who are not covered by the amendments due to the non-retroactive effect of these amendments.

SECTION 608—LUMP-SUM PAYMENTS; RIGHTS OF CURRENT AND FORMER SPOUSES

Section 8 inter alia amends section 234 of the CIARDS Act, on lump-sum payments from the CIARDS fund, by bringing it into conformity with section 815(1) of the Foreign Service Act of 1980, P.L. 96-465, concerning the right of former spouses to a pro rata share in lump-sum payments from the fund. Subsection (1) amends subsection 234(a) of the CIARDS Act by adding a phrase at the beginning of that subsection to the effect that payments under section 234 are subject to the limitations contained in the new subsections (b) and (d) added by this section concerning the rights of former and current spouses.

Subsection (2) adds a new subsection to section 234 of the CIARDS Act, subsection 234(c), which provides that a qualified former spouse is entitled to a pro rata share in lump-sum disbursements from the CIARDS fund in the same proportion as for retirement annuities and survivor payments under section 222(a)-(b). New subsection 234(c) is drawn directly from subsection 815(1) of the Foreign Service Act; a discussion of its effect is given on page 70 of the report of the Foreign Relations Committee on that Act, Sen. Rep. No. 96-913.

Subsection (3) adds a new subsection (d) to section 234 of the CIARDS Act, to the effect that the Director may make lump-sum disbursements to CIARDS participants or former participants only upon notification of any current spouse or former spouse with whom the participant or former participant has not concluded a final, legally recongizable and enforceable property settlement or judgment incident to divorce proceedings, and that the express written waiver of such spouse or former spouse be obtained before any lump-sum payment is made from the fund.

New subsection 234(d) is original and is intended to ensure that the rights of qualified former spouses to a share of retirement benefits from the fund are not defeated through lump-sum withdrawals by CIARDS participants of former participants. Such withdrawals could occur either before or at the time of retirement and could be made with the knowledge that divorce is impending. In requiring express written waiver of both spouses for lump-sum withdrawals from the CIARDS fund, the new provision is similar to the express written waiver of both spouses required for waiver of survivorship rights, contained in new section 221(b)(1)(B)-(C) of the CIARDS act, which is adopted in section 3 of the present bill.

SECTION 609—SPOUSAL AGREEMENTS; COURT DECREES

Section 9 amends section 263 of the CIARDS Act, (1) by providing that the prohibition on attachment, garnishment and other forms of legal process of benefits from the CIARDS fund is subject to the new subsection, (b), added to section 263, and (2) by adopting the new subsection. Subsection 263(b) provides that payments under the CIARDS Act which would be made under any other section of the Act shall be made to a participant or the child, survivor, or former spouse of the participant based on the service of the participant as specified in any legally enforceable spousal agreement or recognized court decree of divorce, annulment, or legal separation between the participant and that former spouse or the terms of any recognized court order or court-approved property settlement agreement incident to any such spousal agreement or court decree of divorce, annulment, or legal separation. It provides further that any such payment shall bar its legal recovery by any other person.

The amendments to section 263 of the CIARDS Act adopted in this section serve the same purpose as section 820(b) of the Foreign Service Act of 1980, with respect to modification by the participant and a current or former spouse through spousal agreement or judicial order incident to divorce or similar proceedings of a former spouse's share of CIARDS benefits. This section makes clear that the qualified former spouse's share of retirement annuities, survivor payments, or lump-sum disbursements from the CIARDS fund established under the other sections of this bill are fully subject to the action of the participant and current spouse through spousal agreement, or the court in divorce or similar proceedings involving a current or former CIARDS participant as one of the parties. This provision as adopted was drawn from the existing provision of law allowing the payment of CIARDS benefits to be affected by divorce, annulment, or legal separation related judicial decrees, orders, or approved settlements—section 1-101(e) of Executive Order No. 12197.

This provision preserves the right of the state divorce courts thoroughly to review the relative positions of the parties at the time of divorce, annulment, or legal separation, and to make a determination of the distribution of marital assets de novo, without any binding substantive presumption concerning the proper shares of the parties thereto in benefits to be paid from the System. Thus the apportionment of CIARDS benefits specified in other sections of these amendments is not conclusive, but serves primarily as a procedural device to ensure that former spouses of participants or former participants do not experience undue difficulties in receiving their equitable share in marital assets either during the time prior to a final, judicially-approved property settlement or thereafter. Of course, the former spouse would be entitled to receive the prescribed share unless the divorce court finds that this division would be inappropriate, in accordance with the court's authority under applicable state law governing property division in connection with divorce to make a determination based on the circumstances of the marriage.

Operation of the provisions of this bill can also assist the Agency in its administration of such domestic matters. The bill provides for automatic payments that need not be challenged by the parties—which may create security problems for the Agency because of the potential need to divulge and discuss the conditions of Agency service in court and to draft a property order including the Agency-related retirement benefits—if it provides an accurate reflection of the circumstances of the parties to the divorce or if other marital assets could conveniently be divided so as to render the statutory division of retirement benefits fully equitable.

I wish to emphasize that the operation of these amendments is not intended to create a "federal law of divorce" through a substantive specification of the presumptive shares of husband and wife in retirement benefits earned through the service of one of the marital partners. The state divorce courts remain completely free under this section to reexamine the distribution of benefits established in the other sections and to divide them on equitable grounds, under applicable state law. These benefits have already been made a marital asset subject to determination by the state courts in the context of divorce, annulment, or legal separation through the operation of section 1-101(e) of Executive Order No. 12197, which was adopted to bring CIARDS into conformity with similar provisions applicable to the Civil Service System under a 1978 amendment to the System contained in P.L. 95-366 and codified as 5 U.S.C. 8345(j).

SECTION 610—TECHNICAL AMENDMENTS

This section makes two minor technical amendments, to conform other provisions of the CIARDS Act to the changes made in this bill. Subsection (1) adds a new phrase to subsection 221(f) of the CIARDS Act to make it clear that the election of a participant under subsection (f)(1) to receive a reduced annuity in order to create a survivorship is subject to the rights of former spouses under new sections 221(b) and 222. Subsection (2) repeats the provisions of subsection 222(d) that the restrictions of minimum payments from the fund contained in subsection 221(1) do not apply to the extent provided in section 222(d), which lifts these restrictions for former spouses, and in the case of additional survivor annuities elected under section 222(c).

SECTION 611—EXCESS CONTRIBUTIONS TO CIARDS

Curently under CIARDS an employee must continue to make the mandatory retirement contribution from his salary even

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after he has reached the maximum obtainable benefit level. This is not the case with the Civil Service Retirement and Disability System or with Foreign Service Retirement and Disability System, both of which permit the withdrawal of excess mandatory retirement deductions. The amendment in this section would add a new subsection 211(c) to the CIARDS Act to CIARDS participants in this situation the option of purchasing additional annuities or applying for a refund of excess contributions. Before either option could be exercized, however, the excess contributions would first be applied toward uncovered service.

The Committee was requested by the CIA to make this amendment to CIARDS in the context of the Committee's reexamination of the provisions of CIARDS in connection with the problem of providing benefits for former spouses. The Committee believed that this proposal is sound and fair and would bring the principles of the CIARDS system into line with the other federal retirement systems in this regard. Additional clauses have been added to the original CIA proposal to specify that refunds of lump sums would be subject to the express written waiver of a current or certain former spouses under section 234 and that excess contributions could be applied to purchase additional retirement or survivorship benefits for a current or former spouse or spouses as well as any other additional annuities in accordance with section 281.

SECTION 512—CIVIL SERVICE EMPLOYEES OF THE AGENCY

Section 12 was not present in S. 2422 as introduced April 22, 1982. As introduced the bill would have made detailed statutory amendments to the CIARDS Act to bring this System into conformity with the Foreign Service Retirement and Disability System with regard to the rights of former spouses to payments from the System. During the Committee's consideration of S. 2422 during its closed hearing on May 3, 1982, and in subsequent unclassified written comments, the CIA strenuously urged the Committee to include its Civil Service employees as well as its CIARDS participants if former spouse provisions were to be added to the latter retirement scheme. The Agency argued that if CIARDS were amended to incorporate these provisions, and not the Civil Service Retirement and Disability System, the retirement options available to Agency employees could be distorted. CIARDS was established as a preferential retirement system for Agency personnel in certain categories of employment, usually involving difficult overseas service, with improved retirement benefits and an earlier mandatory retirement age.

Section 12 was added to the bill by the Committee in response to these and other concerns. This section is modelled after similar provisions adopted by the House of Representatives as Title VI of its Intelligence Authorization Bill for Fiscal 1983, H.R. 6068. The House bill would establish the right of qualified former spouses to share in retirement and survivor payments from both CIARDS and the Civil Service System, for CIA employees who retire from the Agency. The House bill would instruct the Director of the Office of Personnel Management, in consultation with the Director of Central Intelligence, to issue regulations implementing these entitlements and bringing the administration of retirement systems for eligible CIA employees into conformity with the Foreign Service Retirement and Disability System in this regard.

In addition to its request that its Civil Service participants be included in the amendments contained in this bill, the CIA has also requested that it be given considerable regulatory flexibility in designing provisions for former spouses. Members of the Select Committee believe that the detailed provisions of S. 2422 concerning CIARDS are well-known in the context of the passage of the similar provisions of the Foreign Service Act in 1980 and in view of the one year experience of the Department of State in administering these provisions. The Committee was unwilling, however, to draft similarly detailed statutory provisions for CIA employees who participate in the Civil Service Retirement and Disability System. Therefore, the Committee decided to retain the detailed statutory amendments contained in S. 2422 as introduced with respect to CIARDS, with several amendments described hereinbefore, and to incorporate the present section to cover Civil Service participants, in accordance with the request of the Agency and the recent action of the House of Representatives.

SECTION 513—EFFECTIVE DATE

The amendments to CIARDS would take effect ninety days after the enactment of this bill. (For the similar effective date provisions for the amendments applicable to qualifying CIA employees who participate in the Civil Service System, see the new section 14(e) of the Central Intelligence Agency Act of 1949, 50 U.S.C. 403 a-m, adopted in section 14 of the present bill.) The automatic retirement benefits for qualified former spouses established in these amendments would become available to spouses who become divorced after the effective date, providing their partner separates from service with the CIA after this date. Thus the amendments to the retirement annuity provisions would not affect retirement benefits already being paid to retired CIARDS participants. The survivorship benefits would apply only to spouses who are divorced after the effective date.

Establishing the effective date in this way leaves certain former spouses, who are divorced before enactment of the amendments, without additional protection. While the Committee realizes that this group has certainly made an important contribution as a result of their marriages, it has decided not to pursue a statutory remedy in their favor at this time. This is because to do so would be retroactively to change the amount of payments already being received under CIARDS and possibly even to affect the validity of existing divorce decrees. At some future date the Congress may wish, nevertheless, to consider providing additional benefits to this group in recognition of their important service.

Survivorship benefits could, however, be secured for certain ineligible former spouses through a voluntary election by their former partners who are participants in CIARDS, through an election under section 7 of the present bill. CIARDS participants so electing could choose to receive a reduced annuity in order to provide survivor benefits for their ineligible former spouses.

Mr. INOUYE. Mr. President, I just wish to associate myself with the remarks of the Senator from Wyoming. Mr. Childs has been almost indispensable to the work of the committee. It has been my privilege to work with him from the very birth of the committee. We will miss him.

Mr. WALLOP. I yield to the Senator from New York.

Mr. MOYNIHAN. I thank my distinguished friend, the Senator from Wyoming. Mr. President, I wish to associate myself with the remarks made about Dan Childs. Mr. Childs is about to leave us. I would like to have the record show that he is leaving to become the comptroller of the Central Intelligence Agency which, I think, can be measured as not only an indication of his own abilities, but of the abilities of the staff of this committee over these recent years. Mr. Childs' service as the committee's senior budget officer accounts in no small part for the extraordinarily distinguished, meticulous, and capable job which the Senator from Wyoming and the Senator from Hawaii have performed as a chairman and vice chairman, respectively, of our Budget Subcommittee.

The statement I have made on the departure of Mr. Childs is one more expression of gratitude for his service to his country, it being a characteristic of the work he has done that very few persons can know its quality, and only rarely can we publicly attest to it, and I am happy to have this occasion to join the chairman, vice chairman of the Budget Subcommittee in doing so. We wish him well in his new position at the CIA.

I would simply wish to state, Mr. President, that the country perhaps ought better to take note, as then Deputy Director of Central Intelligence, Adm. Bobby Inman, observed in an address to the American Newspaper Publishers Association in San Francisco on April 27, that from 1964 to the mid-1970's the number of personnel in the intelligence establishment declined by 40 percent at a time when the country may have had the impression of some billowing enterprise when it was, in fact, being reduced more sharply than any Government agency of which I am aware.

As the new DDCI, Mr. John McMahon, testified in his confirmation hearings, this downward trend was reversed in 1979, and we are moving back in the direction to a point—we have not reached that point, but we are moving back to where we were, if I may put it in those terms. This is certainly the judgment of the committee. And the fact that it has been carried forward with such skill, with such ease in terms of agreement and consensus, is a tribute in important part to the skill of the Senator from Wyoming and the Senator from Hawaii.

Mr. President, the annual budget authorization process is one of the principal means by which the committee fulfills its duties. Senate Resolution 400, which established the select committee in May 1976, charges the committee with the responsibility "to make every effort to assure that the appropriate departments and agencies of the United States provide informed and timely intelligence necessary for the Executive and Legislative branches to make sound decisions affecting the security and vital interests of the Nation." The budget process also is an important occasion for the

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committee to carry out a second significant duty specified in Senate Resolution 400—that is, "to provide vigilant legislative oversight over the intelligence activities of the United States to assure that such activities are in conformity with the Constitution and laws of the United States."

With the authorization bill for fiscal year 1983, the select committee takes another step in the rebuilding of our intelligence capabilities which, due to resource constraints in the past decade, have been at times less than adequate. I have already referred to Admiral Inman's speech, reported in the April 28, 1982, New York Times, in which he noted that the CIA lost 40 percent of its personnel from 1964 to the mid-1970's. It was this trend of decreasing resources which the committee has attempted to reverse. In this connection, it was gratifying to hear Mr. McMahon attest to the committee's contribution to the rebuilding process. At his May 27, 1982, nomination hearing, he noted that the "downward trend (in intelligence resources and capabilities)" has been reversed, and that this occurred "principally on the initiative of Congress" beginning in 1979 with the approval of the Intelligence Authorization Act for fiscal year 1980.

The committee continues to work in this spirit. This year, for example, the committee supplemented the administration's request for the FBI's foreign counterintelligence program by $17.6 million and 207 positions. The committee found that these additional resources are essential to enable the FBI to meet growing threats from hostile foreign intelligence services and international terrorists operating in the United States. I should also note that, where expenditures were determined to be unwarranted, the committee did not hesitate to make appropriate reductions or deletions.

I cannot, of course, refer in detail in open session to the matters which comprise the heart of the bill. It must suffice to say that, after reviewing thousands of pages of budget justification material, and hearing many hours of testimony, our committee agreed that the amounts provided in the bill are necessary to recapitalize the intelligence system and to acquire the capabilities needed to satisfy the broad range of challenges that lie ahead. As the committee report states, we are "persuaded that these investments are essential and that the appropriations recommended for fiscal year 1983 represent a prudent strategy for achieving these goals."

I should like to mention certain legislation which originated in the select committee, although it was not included in this year's authorization bill. On May 6, 1982, the Senate unanimously passed S. 2488, the Defense Intelligence Agency Personnel Management Improvement Act of 1982. This bill is intended to improve the management of civilian personnel within DIA by exempting DIA from civil service classification provisions, authorizing compensation to DIA civilian personnel, and authorizing the termination of such personnel when necessary or advisable in the interests of the United States. These provisions were included in the intelligence authorization bill passed by the Senate last year; however, only provisions establishing a senior executive service in DIA were adopted in conference and became law.

The additional authorities in S. 2488 would enable DIA to establish a flexible personnel system similar to that if CIA. As the select committee notes:

DIA has been significantly handicapped in its ability to recruit and reward outstanding analysts and other intelligence specialists and otherwise to operate an effective civilian personnel system. If the benefits of "competitive analysis," a concept which both Administration and the Committee strongly support, are to be realized, it is imperative that DIA have analytical capabilities comparable to its sister agencies.

I urge the House of Representatives to take early and favorable action on this bill.

I should also like to draw the attention of my colleagues to S. 2422, the Central Intelligence Agency Spouses' Retirement Equity Act—a bill of which I am pleased to be a cosponsor and which the select committee recently ordered to be reported favorably to the Senate, as amended.

This legislation has afforded the select committee an unusual opportunity to ameliorate the financial burdens occasioned by the termination of marriages of CIA officers—burdens that have frequently fallen disproportionately on the spouses of those officers. This is a basic human problem, one which is easily overlooked in an age preoccupied with national technical means and other more glamorous aspects of intelligence work. It is, indeed, heartening that the committee has taken the time to address this issue.

We have received testimony from several individuals, ably represented by former Director of Central Intelligence William Colby and his wife Barbara, about the special pressures and hardships faced by spouses of CIA employees who served overseas in clandestine capacities. Unfortunately, many of these marriages have ended with the spouses finding themselves with little financial resources and no adequate legal remedy to acquire a share of the CIA officers' pension and survivor benefits. Under current law, there is no clear precedent for awarding a former spouse a percentage of these benefits.

Considerations similar to those led the Congress in 1980 to give former spouses of Foreign Service officers an equitable interest in the officer's retirement benefits. The case of CIA spouses is, if anything, stronger. As a consequence of the secret nature of the CIA officer's work, the spouse is generally subjected to greater psychological and social pressures than the typical Foreign Service counterpart. Moreover, in divorce related proceedings, CIA spouses are inhibited by security considerations from presenting evidence to courts which might support a claim against the officer's pension or other assets.

I wish to commend the distinguished former chairman of the select committee, Senator INOUYE, for taking the lead in sponsoring this legislation. As indicated by its title, S. 2422 is intended to provide some equity to CIA spouses. It would do so by entitling individuals who have been married for 10 or more years to CIA officers and who have spent more than 5 years abroad to share up to one-half of the officers' retirement annuities and a similar portion of their survivorship benefits. A former spouse would therefore become eligible to receive those payments following a divorce. This entitlement would be subject to such adjustment as a State domestic relations court may deem appropriate. Nevertheless, this bill should place the spouse in considerably stronger position in any court contest relating to the division of property.

This is a modest measure, but it serves the important purpose of recognizing the personal and professional sacrifices made by spouses of CIA officers engaged in overseas service. It is fully in keeping with the Foreign Service Act which established spousal interests in the pension system under that act. In this connection, I should like to point out that S. 888, the Economic Equity Act, which I joined Senator DURENBERGER in sponsoring, would provide spousal interests in the civil service a military pension systems similar to those provided in S. 2422. I am pleased that S. 2422 has been incorporated as an amendment to the Intelligence Authorization Act for fiscal year 1983. I am hopeful that this amendment soon become law and that we will thereby move closer to the day that all Government retirement systems contain this basic equity.

Mr. President, in conclusion, I wish to urge the Senate to support passage of the Intelligence Authorization Act for fiscal year 1983.

• Mr. DURENBERGER. Mr. President, ask the average person to describe the typical CIA officer and chances are you will get a portrait of James Bond: the young, dashing, daring, and above all else, unmarried secret agency.

The fact is, of course, the typical intelligence officer is a far cry from the movie image. We have dedicated, hard-working men and women who, in many cases, are joined and reinforced in their commitment to our country by their spouses and families.

Today the Senate, by passing this amendment, is recognizing that national security intelligence is more than tradecraft and technology. Intelligence is also people, intelligence officers and their families, giving of them-

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selves for the sake of their fellow citizens.

The human dimension of intelligence is terribly important. I have seen the conditions in which intelligence personnel must work. It is no bed of roses when you have to vary your routes to and from the office, in case terrorists are waiting for you. It is not easy, economically or emotionally, when spouses are sent to posts in which professional employment is forbidden by the laws or customs of the host country or difficult to arrange.

These tensions and frustrations often lead to substantial problems for American intelligence. Families are less willing to be moved around the world at the Government's whim. The strains on families are seen by more people as reasons not to pursue a career that is vital to our national security.

Many of these problems cannot be avoided, but we can ease some of the emotional and economic tensions. This amendment will assure the spouses of CIA officers overseas that their many years of service to their partners and their country will not end in a nightmare of poverty because of divorce.

The Economic Equity Act (S. 888), which I introduced last year, is a parallel measure covering the civil service and military retirement systems. I am pleased to have several Intelligence Committee colleagues as cosponsors of that bill. Just as I am sure that the amendment before us will pass, so I am sure that in time all Government retirement systems will contain this basic equity. It is the path of both fairness and practicality.

I am confident that this amendment will aid in the recruitment of bright, motivated people to serve the CIA. It will also lead to a better family life for CIA officers overseas, by giving spouses the assurance of some economic security for themselves and their families.

This amendment is more, of course, than just a response to personnel problems. It is tangible affirmation of the principle of fairness. A person who, for over 10 years, shares the life of an intelligence officer deserves to share in the economic security that the officer achieves during that time. A later divorce does not erase the spouse's contribution; we never regain those years.

Mr. President, today is the deadline for ratification of the equal rights amendment. This is a poignant time for millions of American women, who are regrouping to continue the fight for their full rights. What better time could there be for the Senate to demonstrate its commitment to economic equity? Let this CIA spouses' amendment be a sign that we keep the faith, that we still care.

We have asked a lot of our intelligence officers and their families. Over the years, they always have responded. Now we have the opportunity to recognize the contributions of CIA spouses and repay them by assuring equity. In good conscience, we can do no less.

Mr. President, I want to pay tribute to a fine person who will soon leave the staff of the Senate Select Committee on Intelligence. Mr. Daniel A. Childs, our chief budget officer, has made a tremendous contribution to the work of the committee. He has built up our budget analysis capability to the point that the committee is now a respected, responsible contributor to these critical decisions.

Danny Childs brought to the committee two decades of CIA experience and an ability to penetrate numbers that would cause other eyes to glass over. He has trained fellow staff members to recognize what is important. He also has reminded them to consider what is practical. His steadying influence will be sorely missed.

Danny Childs raises horses in his spare time, and he knows better than to turn down greener pastures. Soon he will become comptroller of the Central Intelligence Agency. There could be no finer person for that important and difficult position.

As Danny rides into the sunset toward Langley, he knows that soon we will be taking pot shots at him. But we will be smiling, happy to have such a fine and thoughtful person for a target.●

Mr. WALLOP. Mr. President, I obviously thank the Senator from New York for his kind remarks.

I would just say it is a measure of Mr. Childs' service and how he has gotten on with the community that he goes to the community. I mean what I said when I said he would serve the country in a fine capacity. I think it will benefit them more than it will us.

Mr. MOYNIHAN. Our loss is their gain.

Mr. HUDDLESTON. Mr. President, I urge my colleagues to support the Intelligence Authorization Act for fiscal year 1983 which provides a substantial enhancement for our Nation's intelligence capabilities. There is no question that the United States needs to strengthen its system for collecting and analyzing intelligence to cope effectively with the increasing complexity of world problems.

In the past it was considered sufficient if the intelligence community could do a reasonably good job of keeping track of our principal adversaries. In more recent years, however, we have all come to realize that the interests of the United States can be affected significantly by events in the far corners of the globe. The crisis over the Falkland Island is the most dramatic example. Who would have thought that an obscure place populated by so few people would engage the military forces of our closest ally in battle in the Western Hemisphere.

Good intelligence will not insure the wise use of American power or the conduct of an effective foreign policy, but it is an essential requirement. Without good intelligence on the military capabilities of contending nations, we cannot hope to assess the readiness of our own forces and those of our allies. Without confidential sources of information to penetrate the secrecy of closed societies, our policymakers cannot fully anticipate possible developments that could threaten our security and world stability. Without the best analytical talents, the vast store of information compiled by the agencies is useless.

The effort by the select committee to work with the intelligence community on ways to overcome their serious resource problems has been completely bipartisan. At the Budget Subcommittee level, the current subcommittee chairman, Senator WALLOP, and his predecessor and now vice chairman, Senator INOUYE, have given us outstanding leadership.

We would be remiss, however, if we did not mention the critical role in this process played by the former Deputy Director of Central Intelligence, Adm. Bobby Inman, who worked closely with the committee to take a truly comprehensive and long-range approach to planning for the future resource needs of the intelligence community.

I also want to take this occasion to express my deep personal appreciation to one of the most valuable staff members that any congressional committee could ever have, Mr. Daniel A. Childs, who has served as the senior budget officer for the select committee since 1976. Dan is leaving to become Comptroller at CIA, where he began his career. We will miss his talents, both as a specialist in the resource needs and management of the intelligence community and as a wise counselor on the conduct and direction of effective congressional oversight.

The last item I want to mention involves one aspect of the intelligence budget that has been of some concern to me. That is the FBI's foreign counterintelligence program, which involves investigations of hostile intelligence activities and international terrorism. The committee has voted to authorized an additional $17.6 million above the amount requested by the administration for this program.

Last February, shortly after the administration submitted its budget request, I wrote a letter to the President urging him to reconsider and submit an amendment providing for a substantial enhancement of FBI capabilities in this field. In my judgment the original request was seriously deficient and did not keep pace with increasing requirements for FBI investigations in this area.

The FBI estimates that about one-third of the Soviet bloc personnel in the United States assigned to embassies, consulates and the United Nations or other international organizations are full-time intelligence officers. Over the past 12 years the number of official representatives of govern-

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ments which engage in hostile intelligence activities in the United States has increased by 400 percent. Immigrants and refugees from the Soviet Union and Cuba also pose a security threat. According to Attorney General William French Smith, Soviet and Cuban intelligence agents have been "a small but significant fraction of these recent refugees." Identifying these covert agents from among the tens of thousands of refugees imposes added burdens on the FBI program.

In December 1981, Attorney General Smith stated publicly that "the number of hostile agents has grown so much that our FBI counterintelligence agents are greatly outnumbered." But the administration's budget request for the FBI failed to enhance this vital element of the Nation's defense against hostile foreign powers.

Fortunately, the select committee's action on the FBI portion of the national foreign intelligence budget would provided the needed resources. It is my hope that this action will be reflected in the authorization and appropriations for the Justice Department when the Senate completes its action on the FBI budget for fiscal year 1983.

I am sure my colleagues on the select committee join in expressing the belief that the administration should adopt policies that insure the FBI is treated fairly in the allocation of intelligence community resources and that its foreign counterintelligence program does not suffer from arbitrary constraints that are not imposed by the Office of Management and Budget on the other principal elements of the national intelligence budget.

Mr. WALLOP. Mr. President, I thank the Senator from Kentucky.

The PRESIDING OFFICER. If there be no further amendments to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

The bill (S. 2487) was passed.

Mr. WALLOP. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. MOYNIHAN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WALLOP. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 6068; Calendar Order No. 585, the companion bill to the one just passed, S. 2487.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 6068) to authorize appropriations for fiscal year 1983 for intelligence and intelligence-related activities of the United States Government, for the Intelligence Community Staff, for the Central Intelligence Agency Retirement and Disability System, to authorize supplemental appropriations for fiscal year 1982 for the intelligence and intelligence-related activities of the United States Government, and for other purposes.

Mr. WALLOP. Mr. President, I ask unanimous consent that all after the enacting clause of H.R. 6068 be stricken and that the language of S. 2487, as amended by the Senate, be substituted in lieu thereof.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WALLOP. Mr. President, I know of no further amendments and request third reading and final passage of H.R. 6068, as amended.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill, having been read the third time, the question is, Shall it pass?

The bill (H.R. 6068) was passed.

Mr. WALLOP. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate rescind its action on passing S. 2487 and that Calendar Order No. 683, S. 2487, be indefinitely postponed.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. STEVENS. Mr. President, it is my clear understanding that we have passed the House bill, not the Senate bill, and it has the text of the Senate language in the House bill.

The PRESIDING OFFICER. The Senator is correct.

Mr. WALLOP. Mr. President, I move that the Senate insist on its amendment and request a conference with the House of Representatives on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer (Mr. KASTEN) appointed Mr. GOLDWATER, Mr. WALLOP, Mr. GARN, Mr. DURENBERGER, Mr. ROTH, Mr. SCHMITT, Mr. MOYNIHAN, Mr. INOUYE, Mr. JACKSON, Mr. LEAHY, and Mr. BENTSEN; and Mr. WARNER for matters of interest to the Armed Services Committee.

Mr. WALLOP. I thank the Chair and I yield the floor.

Mr. STEVENS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

FEES OF THE COPYRIGHT OFFICE

Mr. STEVENS. Mr. President, I ask that the Chair lay before the Senate Calendar Order No. 688, H.R. 4441 and ask for its immediate consideration.

Mr. ROBERT C. BYRD. Mr. President, there is no objection.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 4441) to amend title 17 of the United States Code with respect to the fees of the Copyright Office, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. STEVENS. Mr. President, I yield to the Senator from Nebraska.

UP AMENDMENT NO. 1050

(Purpose: To amend title 17, United States Code, to exempt nonprofit veterans' organizations and nonprofit fraternal organizations from the requirement that certain performance royalties be paid to copyright holders)

Mr. ZORINSKY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Nebraska (Mr. ZORINSKY) proposes an unprinted amendment numbered 1050.

Mr. ZORINSKY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Sec. 3. Section 110 of title 17, United States Code, is amended—

(1) in paragraph (4), by striking out "performers, promoters, or organizers" and inserting in lieu thereof "performers or organizers";

(2) by striking out the period at the end of paragraph (5) and inserting in lieu thereof a semicolon;

(3) by striking out the period at the end of paragraph (6) and inserting in lieu thereof "; and"; and

(4) by adding at the end thereof the following new paragraph:

"(10) performance of a nondramatic literary or musical work in the course of a social function which is organized and promoted by a nonprofit veterans' organization or a nonprofit fraternal organization to which the general public is not invited, if the proceeds from such performance, after deducting the reasonable costs of producing the performance, are used exclusively for charitable purposes and not for financial gain.".

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